

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC 10 1985

JACK D. SILVER, CLERK  
U.S. DISTRICT COURT

T. F. SCHWERMER,  
Plaintiff,  
COAL EQUIP., LTD.,  
a Limited Partnership,  
Plaintiff,  
vs.  
HARRY F. THOMPSON,  
Defendant.

Case No. 85-C-260-B *ex*  
(consolidated)

Case No. 85-C-261-E *B* ✓

STIPULATION OF DISMISSAL

COME NOW the Plaintiffs, T. F. Schwermer, an individual, and Coal Equip, Ltd., a limited partnership, and Defendant, Harry F. Thompson, by and through their attorneys of record, William B. Selman and Stephen R. Clark and do hereby stipulate to the Dismissal With Prejudice of the above-entitled causes against the Defendant, Harry F. Thompson, for the reason that all parties have compromised and settled their differences.

RHODES, HIERONYMUS, JONES, TUCKER & GABLE

By: William B. Selman  
WILLIAM B. SELMAN, OBA #8072  
2800 Fourth National Bank Building  
Tulsa, Oklahoma 74119  
(918) 582-1173

Attorneys for Plaintiffs, T. F. Schwermer  
and Coal Equip, Ltd.

MCCORMICK, ANDREW & CLARK

By: Stephen R. Clark  
STEPHEN R. CLARK, OBA #1713  
111 East First Street  
Tulsa, Oklahoma 74103

Attorneys for Defendant, Harry F. Thompson

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC 10 1985

T. F. SCHWERMER,

Plaintiff,

COAL EQUIP., LTD.,  
a Limited Partnership,

Plaintiff,

vs.

HARRY F. THOMPSON,

Defendant.

JACOB D. SILVER, CLERK  
U.S. DISTRICT COURT

Case No. 85-C-260-B ✓  
(consolidated)

Case No. 85-C-261-E<sup>B</sup>

STIPULATION OF DISMISSAL

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Attorneys for Defendant, Harry F. Thompson

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED  
DEC 10 1985

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

T. F. SCHWERMER,

Plaintiff,

COAL EQUIP., LTD.,  
a Limited Partnership,

Plaintiff,

vs.

HARRY F. THOMPSON,

Defendant.

Case No. 85-C-260-B  
(consolidated)

Case No. 85-C-261-E

STIPULATION OF DISMISSAL

COME NOW the Plaintiffs, T. F. Schwermer, an individual, and Coal Equip, Ltd., a limited partnership, and Defendant, Harry F. Thompson, by and through their attorneys of record, William B. Selman and Stephen R. Clark and do hereby stipulate to the Dismissal With Prejudice of the above-entitled causes against the Defendant, Harry F. Thompson, for the reason that all parties have compromised and settled their differences.

RHODES, HIERONYMUS, JONES, TUCKER & GABLE

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111 East First Street  
Tulsa, Oklahoma 74103

Attorneys for Defendant, Harry F. Thompson

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ROY LANE,

Plaintiff, )

v. )

No. 86-C-397-E

STATE FARM MUTUAL AUTOMOBILE INSURANCE  
COMPANY,

Defendant.)

DEC 10 1986  
Jack C. Ellison  
U.S. DISTRICT COURT

ORDER OF DISMISSAL WITH PREJUDICE

Now on this 10th day of December, 1986, the Court having reviewed the Stipulation For Order Of Dismissal With Prejudice filed by the party litigants herein, and being satisfied that the dispute and controversy giving rise to the above-styled and numbered cause of action has been fully compromised and settled, finds that said action is herewith dismissed with prejudice to the refiling of a future action.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that above-styled and numbered cause of action is herewith dismissed with prejudice to the refiling of a future action, with the party litigants bearing their own costs and attorney fees.

S/ JAMES O. ELLISON

United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC -9 1986

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

HARTFORD FIRE INSURANCE COMPANY; )  
HARTFORD CASUALTY INSURANCE )  
COMPANY; HARTFORD ACCIDENT AND )  
INDEMNITY COMPANY; NEW YORK )  
UNDERWRITERS INSURANCE COMPANY; )  
TWIN CITY FIRE INSURANCE COMPANY; )  
and HARTFORD INSURANCE COMPANY )  
OF THE MIDWEST, )

Plaintiffs, )

v. )

WESTERN NATIONAL BANK OF TULSA, )  
a national banking association, )

Defendant. )

No. 85-C-441-B ✓

O R D E R

This matter comes before the Court on plaintiffs motion for new trial filed July 25, 1986. The Court will consider plaintiffs' motion as one to reconsider its previous order granting the defendant's motion for summary judgment. After reviewing the previous order, the authorities contained therein, and the briefs and arguments of the parties, the Court finds that plaintiffs' motion for a new trial will be denied.

The plaintiffs in their argument for a new trial submit that the Court's reliance on the case of McFarling v. Demco, Inc., 546 P.2d 625 (Okla. 1976) is misplaced. Plaintiffs argue that the language contained in paragraph 1 of the agency agreement creates a trust relationship sufficient to negate this Court's decision characterizing the relationship between Freese and Company and Hartford as that of debtor/creditor.

The Court views plaintiffs' interpretation as weak in light of the specific language of the agreement which allows the agent to retain the collected premiums for a period of 45 days before remitting the appropriate earned amounts to the insurer.

The agency agreement contains no specific trust language or requirement of fund segregation. The Court believes that the facts and circumstances confronting the Oklahoma Supreme Court in McFarling v. Demco, Inc., supra, are clearly analogous to the instant case and that McFarling should be followed.

Therefore, the Court finds that it correctly interpreted the agency agreement between Freese and Company and the plaintiffs, and that the defendant's motion for summary judgment was properly granted.

IT IS SO ORDERED this 9<sup>th</sup> day of December, 1986.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DAVID R. HANCOCK,

Plaintiff,

v.

RICK ZIMMERMAN,

Defendant.

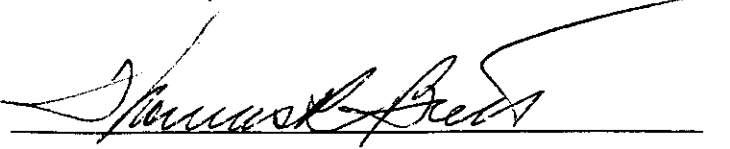
No. 85-C-496-B

FILED  
DEC - 9 1986  
JACQ. C. STUBBS, CLERK  
U.S. DISTRICT COURT

J U D G M E N T

In keeping with the Findings of Fact and Conclusions of Law filed this date, Judgment is hereby entered in favor of the plaintiff, David R. Hancock, and against the defendant, Rick Zimmerman, as and for attorneys fees, as well as expert witness fees, in the amount of Seventeen Thousand Three Hundred Twenty-Five Dollars (\$17,325.00); interest is hereby granted on said sum from this date at the rate of 5.77% per annum.

DATED this 9<sup>th</sup> day of December, 1986.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC -9 1986

DAVID R. HANCOCK,

Plaintiff,

v.

RICK ZIMMERMAN,

Defendant.

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

No. 85-C-496-B ✓

FINDINGS OF FACT  
AND  
CONCLUSIONS OF LAW

The plaintiff's application for attorneys fees of August 4, 1986, was heard by the Court on November 10, 1986. After considering the evidence presented, the arguments of counsel, and the applicable legal authority, the Court enters the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The plaintiff having recovered a judgment by jury verdict from the defendant in the amount of \$16,070.00, is the prevailing party and entitled to an reasonable attorneys fee pursuant to 12 Okl.St.Ann. §936.

2. The parties stipulated and agreed the \$100.00 per hour rate for out-of-court time and the \$125.00 per hour rate for in court time was reasonable. The dispute centers in whether or not the total hours claimed as services rendered by plaintiff's counsel were reasonable and necessary.

3. The Court concludes the following are reasonable in terms of hourly rate, time expended, for attorneys Randolph L.



Strnad and Celia A. Skrivanek, counsel for plaintiff herein, and for expert witness fee:

a. On behalf of Randolph L. Strnad:

	Rate	Hours	Total
Trial time	\$125.00/hr.	15	\$ 1,875.00
Fee hearing	125 00/hr.	1	125.00
Pre and post trial, including prepara- tion of fee appli- cation	100.00/hr.	131	<u>13,100.00</u>
Total (Randolph L. Strnad)			\$15,100.00

b. On behalf of Celia A. Skrivanek:

	Rate	Hours	Total
Trial and nontrial time	\$100.00/hr.	20	\$ 2,000.00
Fee hearing	100.00/hr.	1	<u>100.00</u>
Total (Celia A. Skrivanek)			\$ 2,100.00

c. On behalf of D. Gregory Bledsoe:

	Rate	Hours	Total
Expert witness at fee hearing	\$125.00/hr	1	\$ <u>125.00</u>
Total (D. Gregory Bledsoe)			\$ 125.00
TOTAL			<u>\$17,325.00</u>

CONCLUSIONS OF LAW

1. The plaintiff is entitled to the attorneys fee set forth in paragrph 3 of the Findings of Fact as a reasonable attorneys' fee as the prevailing party pursuant to 12 Okl.St. Ann. §936.

2. The reasonable attorneys fee for services rendered as provided in paragraph 3 of the Findings of Fact herein is in

keeping with the attorneys fee standard set forth in State ex rel. Burk v. City of Oklahoma City, 598 P.2d 659 (Okla. 1979) and Oliver's Sports Center v. Nat. Standand Ins., 615 P.2d 291 (Okla. 1980).

3. Any Finding of Fact which might be properly characterized a Conclusion of Law is incorporated herein.

4. A separate Judgment in keeping with these Findings of Fact and Conclusions of Law shall be entered contemporaneous herewith.

DATED this 9<sup>th</sup> day of December, 1986.

  
\_\_\_\_\_  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE



Frankie L. Tyer, for the principal sum of \$974.30, plus interest at the rate of 9 percent per annum and administrative costs of \$.67 per month from January 6, 1986, until judgment, plus interest thereafter at the current legal rate of 5.77 percent per annum until paid, plus costs of this action.

S/ JAMES O. ELLISON

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UNITED STATES DISTRICT JUDGE

Entered

JKS/vlw

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED  
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CHERYL ANN HOWARD,

Plaintiff,

vs.

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE,

Defendant.

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

No. 86-C-828-E

ORDER

NOW on this 24th day of December, 1986, comes on for hearing the above captioned matter and the Court, being fully advised in the premises, finds:

The plaintiff filed this action on September 9, 1986. In her first cause of action plaintiff alleges that defendant owes the plaintiff under an insurance policy for lost wages, medical expenses incurred, remaining unpaid medical coverage and the cost of this action. Under her second cause of action, the plaintiff alleges that the defendant acted in bad faith in refusing to pay her medical claims. She prays for judgment for medical expenses, plus exemplary damages, an amount for mental anguish, attorney's fees and the cost of this action.

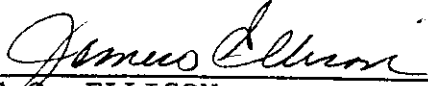
The defendant moved, on September 22, 1986, to dismiss the complaint against it on the grounds that the plaintiff fails to state a claim upon which relief can be granted, pursuant to Federal Rules of Civil Procedure 12 (b) (6). The defendant moved to dismiss for the reasons that the plaintiff failed to submit

her claim to arbitration as required by Oregon law, the law under which her claim arises, and that her bad faith action cannot be granted under Oregon law. The defendant also filed a Brief in support of the Motion to Dismiss. On October 9, 1986, the defendant filed a Supplemental Brief in support of the motion. The plaintiff filed no Memoranda in Opposition to the motion and briefs.

Local Rule 14 of the Rules of the United States District Court for the Northern District of Oklahoma provides that memoranda in opposition to a motion shall be filed within ten (10) days after the filing of the motion. Local Rule 14 (a). Furthermore, Local Rule 14 (a) states: "Failure to comply with this paragraph will constitute waiver of objection by the party not complying, and such failure to comply will constitute a confession of the matters raised by such pleadings." As the plaintiff has failed to comply with Local Rule 14 (a) in not filing a Memoranda in Opposition within ten (10) days, it is held to be a confession on her part of the matters raised by the motion and briefs.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Motion to Dismiss of the defendant, State Farm Mutual Automobile Insurance, is granted.

IT IS SO ORDERED.

  
\_\_\_\_\_  
JAMES O. ELLISON,  
UNITED STATES DISTRICT JUDGE

Entered

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC -9 1985

UNITED STATES OF AMERICA, )  
 )  
v. )  
 )  
CHARLES ROBERT KILLINGSWORTH, )  
 )  
Movant. )

NO. 86-C-736-B  
(No. 84-CR-69-B)

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

O R D E R

This is a pro se motion to vacate or set aside sentence pursuant to 28 U.S.C. §2255. The case has been assigned civil case number 86-C-736-B, and docketed in movant's criminal case No. 84-CR-69-B.

Movant is currently a prisoner at the Oklahoma State Penitentiary at McAlester, Oklahoma, serving a state sentence. The movant herein pled guilty to a charge of violating 18 U.S.C. §871 (threat against the President) on November 29, 1984, and was subsequently sentenced on December 12, 1984, for a period of four years to run consecutively with his state term.

In his §2255 motion, movant alleges three errors in the taking of his plea of guilty on the offense charged in the indictment: 1) that the plea of guilty was unlawfully induced without understanding the nature of the charges and consequences of the plea. (Movant bases this contention on the fact that he was under the influence of a strong sedative (Mellaril) at the time of his guilty plea as well as at the time of sentencing); 2) the movant claims he was denied effective assistance of counsel during the proceedings. (Movant claims that his court

appointed counsel did not discuss the consequences of the plea and also the fact she knew that he was under the influence of a strong sedative); and 3) there were not any court transcripts filed on any court proceedings in his case.

The Court has examined the movant's motion to vacate sentence, the court file and records, and further has listened to the tape recordings of the movant's change of plea hearing and the subsequent sentencing hearing and finds that the movant is not entitled to relief from his sentence and therefore the motion is denied.

Movant's first assertion that he was under a strong sedative and unaware of his surroundings is refuted by the clear and straightforward dialogue from the change of plea hearing as follows:

THE COURT: Within the last 48 hours have you been under the influence of any drugs?

MOVANT: Yes, sir.

THE COURT: And what are those?

MOVANT: Mellaril.

THE COURT: And what's that for, please?

MOVANT: It's a psychotic drug. They gave it to me this morning.

THE COURT: Does that in any way interfere with your ability to understand what's going on here and for you and me to communicate with one another?

MOVANT: No, sir. It just makes me sleepy.

THE COURT: Very well. Are you wide enough awake here to understand what's gone on thus far in this proceeding?



MOVANT: Yes, sir.

THE COURT: Although you say it makes you sleepy, you look reasonably wide awake to me. Do you think that's a proper characterization of how you look at this time, that you are wide awake?

MOVANT: Yes, sir.

(Change of Plea Hearing, November 29, 1984.)

In addition, the following dialogue took place at the sentencing hearing after movant's counsel informed the Court the plaintiff was under medication:

THE COURT: Very well, did you hear the comments of your counsel, Mr. Killingsworth?

MOVANT: Yes, sir. I did.

THE COURT: Do you concur in those comments?

MOVANT: Yes, sir. I do.

THE COURT: In other words, do you think you are mentally about yourself enough that you understand the significance of our proceeding here and that you are able to respond appropriately to the court's questions?

MOVANT: Yes, sir. I am.

The Court is satisfied that at the time of the change of plea the movant was coherent and understood his surroundings as evidenced by the foregoing dialogue and the movant's appearance at the hearing. Therefore, the Court finds that the movant's first assertion of error is without merit.

Second, the movant claims that he was denied effective assistance of counsel. However, during the change of plea hearing, the Court asked the movant point blank how he felt about

the counsel he had received. In this context the following dialogue took place:

THE COURT: Throughout this proceeding have you been represented by your counsel, Ms. Sondra Fogley Houston?

MOVANT: Yes, sir.

THE COURT: Have you been satisfied with her representation of you in every respect?

MOVANT: Yes, sir.

THE COURT: In other words, has she been a good lawyer on your behalf?

MOVANT: Yes, sir.

(November 29, 1984 Change of Plea Hearing.)

In light of the movant's own statements<sup>1</sup> acknowledging the adequate assistance of counsel and the Court's observance of the counsel's conduct during the course of the hearings and her statements on the movant's behalf, the Court finds that the movant's second contention of error is also without merit.

Third, the movant asserts that he is somehow prejudiced by

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<sup>1</sup> In addition to his oral declarations, the movant signed and swore in a document entitled Petition to Enter Plea of Guilty the following:

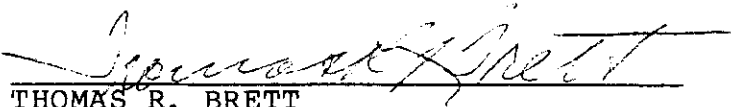
1). "My mind is clear \* \* \* I further offer my plea of guilty with full understanding of all matters set forth in the indictment in this petition,

\* \* \*

2). "My lawyer has counseled and advised me on the nature of each charge ..." and "I believe that my lawyer has done all that anyone could do to counsel and assist me, and I am satisfied with the advice and help he has given me." (Petition at page 2).

lack of transcripts in this proceeding.<sup>2</sup> However, the Court has reviewed the tape recordings of the proceedings and is convinced that the Court had proper jurisdiction at the time of the change of plea and sentencing hearings and that the sentence imposed was authorized by law. Movant did not request a free transcript pursuant to 28 U.S.C. §753(f) but asked the Court Clerk only for documents and transcripts in his file. The Court finds that movant's motion is frivolous and therefore will not authorize a free transcript pursuant to 28 U.S.C. §753(f). There has been no denial or infringement of constitutional rights of the movant in any of the proceedings before this Court. Therefore, the movant's motion under 28 U.S.C. §2255 is hereby denied.

IT IS SO ORDERED this 27th day of December, 1986.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup> No transcript has been made of the change of plea or sentencing hearings as no request for transcription has been made. The proceedings are preserved by tape recordings and stenographic notes.

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC -9 1986

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

JULIE L. SAXON and PAUL SAXON, )

Plaintiff's )

-vs- )

No. Q-85-C-798-E

RICHARD VINCENT LOUERDE, and )  
FARMERS INSURANCE COMPANY, )  
INC., a foriegn corporation, )

Defendants. )

and )

FARMERS INSURACE COMPANY, )  
INC., )

Third Party )  
Plaintiff, )

-vs- )

JAMES ABRAMS, )

Third Party )  
Defendant. )

DISMISSAL WITHOUT PREJUDICE

COMES NOW the third party plaintiff, Farmers Insurance  
Company, Inc., and hereby dismisses without prejudice this cause  
of action against the third party defendant, James Abrams, only.

Respectfully submitted,

WILBURN, MASTERSON & HOLDEN

By


  
RAY H. WILBURN OBA #9600

2526-A East 71st Street

Tulsa, OK 74136  
(918) 494-0414

CERTIFICATE OF MAILING

I, RAY H. WILBURN, hereby certify that on this 9th day of December, 1986, I mailed a true and correct copy of the above and foregoing Dismissal Without Prejudice with proper postage thereon fully prepaid to: James Frasier, P.O. Box 799, Tulsa, OK 74101, Paul Boudreaux, 300 Oil Capital Bldg., 506 South Main, Tulsa, OK 74103 and James K. Secrest, 1515 E. 71st Street, Tulsa, OK 74136.

  
RAY H. WILBURN

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED  
DEC -9 1986

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

FRANK PARKER,

Plaintiff,

v.

No. 85-C-897-B

FARMERS INSURANCE COMPANY,  
INC., d/b/a FARMERS INSUR-  
ANCE GROUP,

Defendant.

FINDINGS OF FACT  
AND  
CONCLUSIONS OF LAW

A hearing was held before the Court on the 10th day of November, 1986, relative to plaintiff's application for attorney fee filed on August 8, 1986. After considering the evidence presented, the arguments of counsel, and the applicable legal authority, the Court enters the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. On July 30, 1986, a jury awarded the plaintiff \$431.00 on his breach of insurance contract claim and \$5,000.00 on plaintiff's alleged claim for breach of implied covenant to deal fairly and make a timely payment of medical payments benefits due.

2. The plaintiff, Frank Parker, is the prevailing party in this action as defined in 36 Okl.Stat.Ann. §3629 and is thereby entitled to an award of attorney's fees.

3. The parties stipulated and agreed that the hourly charge of \$85.00 per hour is reasonable for the services herein. The dispute centers in whether or not the total claimed hours of 222.5 hours was reasonable and necessary.

4. The Court concludes 151.2 hours could be considered reasonable and necessary as time expended at the agreed rate of \$85.00 per hour, making a total attorney's fee of \$12,852.00. The Court concludes that approximately 71 hours claimed by plaintiff's counsel were duplicated hours when two lawyers were working on the case. The Court concludes the nature of plaintiff's claim was such that it was unnecessary for two lawyers to work on pretrial matters simultaneously and appear for the trial of the case simultaneously and said 71 hours is being disallowed for this reason.

#### CONCLUSIONS OF LAW

1. The plaintiff as the prevailing party is entitled to a reasonable attorney's fee herein pursuant to 36 Okl.Stat.Ann. §3629.

2. The Court concludes that the determination of the 151.2 hours at the \$85.00 per hour rate, making a total attorney's fee of \$12,852.00, is in keeping with the standard set forth in the cases of State ex rel. Burk v. City of Oklahoma City, 598 P.2d 659 (Okla. 1979) and Oliver's Sports Center v. Nat. Standard Ins., 615 P.2d 291 (Okla. 1980).

3. Any Finding of Fact above which might be properly characterized a Conclusion of Law is incorporated herein.

4. A separate Judgment for the plaintiff, Frank Parker, and against the defendant, Farmers Insurance Company, in keeping with these Findings of Fact and Conclusions of Law shall be entered this date.

DATED this 9<sup>th</sup> day of December, 1986.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC -9 1986

JACK S. SILVER, CLERK  
U.S. DISTRICT COURT

FRANK PARKER,

Plaintiff,

v.

No. 85-C-897-B

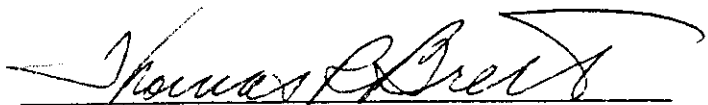
FARMERS INSURANCE COMPANY,  
INC., d/b/a FARMERS INSUR-  
ANCE GROUP,

Defendant.

J U D G M E N T

In keeping with the Findings of Fact and Conclusions of Law entered this date, Judgment is hereby entered in favor of the plaintiff, Frank Parker, and against the defendant, Farmers Insurance Company, Inc., d/b/a Farmers Insurance Group, as and for attorney's fee, in the amount of Twelve Thousand Eight Hundred Fifty-Two Dollars (\$12,852.00), plus interest on said sum at the rate of 5.77% per annum from this date.

DATED this 9<sup>th</sup> day of December, 1986.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

OKLAHOMA BLACK OFFICERS, INC., )  
et al., )

Plaintiffs, )

vs. )

CITY OF TULSA, OKLAHOMA, et al., )

Defendants. )


No. 83-C-246-B ✓

HON. THOMAS R. BRETT

FINAL JUDGMENT OF NO CAUSE OF ACTION  
AGAINST PLAINTIFF CURTIS PRICE, JR. AND  
IN FAVOR OF FRATERNAL ORDER OF POLICE  
AND ALL INDIVIDUALLY NAMED FOP DEFENDANTS

In accordance with the Order entered this date, it is  
HEREBY ORDERED AND ADJUDGED that final judgment is entered in  
favor of the Fraternal Order of Police and all individually named  
FOP Defendants and against Plaintiff Curtis Price, Jr., and all  
claims of Plaintiff Curtis Price, Jr. in this action and con-  
tained in the Third Amended and Supplemental Complaint against  
the Fraternal Order of Police and all individually named FOP  
Defendants are hereby dismissed with prejudice. The parties are  
to pay their respective costs, including attorney's fees.

Dated this 8<sup>th</sup> day of December, 1986.

  
THOMAS R. BRETT  
U. S. DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA


BOB G. KEMP, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	No. 85-C-722-C
	)	(consolidated)
BOARD OF COUNTY COMMISSIONERS	)	85-C-723-C
OF OTTAWA COUNTY, OKLAHOMA,	)	85-C-724-C
	)	85-C-725-C
Defendant.	)	85-C-726-C
	)	85-C-727-C
	)	85-C-329-C

J U D G M E N T

This matter came on before the Court on the motion of defendant for summary judgment. The issues having been duly presented and a decision having been duly rendered in accordance with the Order entered simultaneously herewith,

IT IS ORDERED ADJUDGED AND DECREED that judgment be hereby entered on behalf of defendant Board of County Commissioners of Ottawa County, Oklahoma as against plaintiffs.

IT IS SO ORDERED this 9th day of December, 1986.

  
H. DALE COOK  
Chief Judge, U. S. District Court

entered

FILED

DEC -8 1986

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

CLERK OF COURT  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

BOB G. KEMP, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	No. 85-C-722-C
	)	(consolidated)
BOARD OF COUNTY COMMISSIONERS	)	
OF OTTAWA COUNTY, OKLAHOMA,	)	85-C-723-C
	)	85-C-724-C
	)	85-C-725-C
Defendant.	)	85-C-726-C
	)	85-C-727-C
	)	85-C-829-C

O R D E R

Now before the Court for its consideration is the motion for summary judgment filed by the defendant on November 26, 1986. The plaintiffs having responded, the issues are now ready for this Court's determination.

The plaintiffs were each employed by the Sheriff's Department of Ottawa County, Oklahoma, in the Northern District of Oklahoma, from January 7, 1985 until at least May 31, 1985. Plaintiffs were "on call" and worked overtime hours for which they were not compensated. Plaintiffs seek back compensation and liquidated damages as provided in 29 U.S.C. §201 et seq., the Fair Labor Standards Act (FLSA). Plaintiffs further allege they are entitled to said relief for "on call" and overtime hours worked from February 19, 1985, the date Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985), was decided,

Metropolitan Transit Authority, 469 U.S. 528 (1985), was decided, up to the passage date of the 1985 FLSA amendments -- November 18, 1985.

In Garcia, the Supreme Court overruled National League of Cities v. Usery, 426 U.S. 833 (1976), and held that the requirements of the FLSA could constitutionally be imposed upon state and local governments. The 1985 amendments to the FLSA limit the application of Garcia to state and local governments. See Pub.L. No. 99-150, 99 Stat. 787.

In response, the defendants assert that the 1985 amendments to the FLSA are an absolute bar on recovery against state and local governments until after the effective date of April 15, 1986. In other words, the defendants construe the language of the 1985 amendments to allow state and local governments until April 15, 1986 to come into compliance with Garcia and the FLSA. The defendants further assert that since plaintiffs' claims arose before April 15, 1986, they are not entitled to the relief requested.

Section 2 to the 1985 amendments to the FLSA provides in pertinent part:

(c) LIABILITY AND DEFERRED PAYMENT. - (1) No State, political subdivision of a State, or interstate governmental agency shall be liable under section 16 of the [FLSA] for a violation of section 6 [or] 7 ... of such Act occurring before April 15, 1986, with respect to any employee of the State, political subdivision, or agency who would not have been covered by such Act under the Secretary

of Labor's special enforcement policy on January 1, 1985, and published in sections 775.2 and 775.4 of title 29 of the Code of Federal Regulations.

Pub.L. No. 99-150, 99 Stat. 788.

Section 7 states the effects of the amendments and provides:

The amendments made by this Act shall not affect whether a public agency which is a State, political subdivision of a State, or an interstate governmental agency is liable under section 16 of the [FLSA] for a violation of section 6 [or] 7 ... of such Act occurring before April 15, 1986, with respect to any employee of such public agency who would have been covered by such Act under the Secretary of Labor's special enforcement policy on January 1, 1985, and published in section 775.3 of title 29 of the Code of Federal Regulations.

Pub.L. No. 99-150, 99 Stat. 791.


The sections of the Secretary of Labor's special enforcement policy referred to in the above passages set forth the state and local governmental exemption found in National League of Cities, supra. Therefore, the plaintiffs, as employees of the Sheriff's Department, were not protected under the Secretary's special enforcement policy. In fact, they were specifically exempted. As a result, according to the language in sections 2(c), and 7 of the 1985 amendments, defendant would not be liable for non-compliance with the FLSA before April 15, 1986.

Therefore, the Court finds that the defendant is entitled to summary judgment as a matter of law. Rule 56(c) of the F.R.Cv.P. provides that summary judgment may be granted when "there is no

genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law."

WHEREFORE premises considered, it is the Order of the Court that the motion of defendant for summary judgment should be and hereby is GRANTED.

IT IS SO ORDERED this 9<sup>th</sup> day of December, 1986.

  
H. DALE COOK  
Chief Judge, U. S. District Court

*entered*

FILED

DEC -9 1986 *pm*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MARY RUSSELL,

Plaintiff,

v.

DOVER CORPORATION/NORRIS  
DIVISION, and UNITED STEEL-  
WORKERS OF AMERICA, AFL-CIO,  
LOCAL UNION NO. 4430,

Defendants.

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

No. 84-C-109-BT ✓

O R D E R

This matter comes before the Court on plaintiff's appeal of the Magistrate's Findings of Fact and Conclusions of Law and Judgment entered on January 30, 1986. After reviewing the whole record, the Magistrate's Findings of Fact and Conclusions of Law and the briefs of the parties, the Court finds that the Magistrate's decision should be affirmed.

Plaintiff brought an action pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000-e et seq., alleging sex discrimination in employment. The case was tried before the Magistrate on December 17, 18 and 23, 1985. The plaintiff alleges that she had been discharged from her job as a janitor because of her sex and not for the reasons of loafing and loitering as asserted by the defendant employer.

Upon consent of the parties pursuant to 28 U.S.C. §636(c), the entire matter was heard before the United States Magistrate for the Northern District of Oklahoma. Section 636(c)(4) allows



an appeal to this court from the Magistrate's decision in the same manner as on an appeal from a judgment of the District Court to the Court of Appeals. Therefore, the Court will apply the clearly erroneous standard in testing the Magistrate's Findings of Fact and Conclusions of Law. See Fed.R.Civ.P. 52(a); see also Pullman-Standard, a Division of Pullman, Inc., v. Swint, 102 S.Ct. 1781 (1982).


The plaintiff on appeal raises only two issues: (1) that the Magistrate did not receive rebuttal evidence before ruling on her claims regarding the alleged improper discharge; and (2) that the Magistrate erred in finding that the plaintiff failed to sustain her burden of proof in identifying a male employee whose behavior merited discharge. The Court's review of the Magistrate's Findings of Fact and Conclusions of Law shows that the Magistrate's refusal to receive plaintiff's proffered rebuttal evidence is not clearly erroneous. The plaintiff, who proceeded pro se, called 23 witnesses in her case in chief and on rebuttal indicated that she wished to recall several of the witnesses to address matters already covered in the case in chief. The Magistrate attempted to explain the purpose of rebuttal evidence to the plaintiff and was satisfied that she had identified no additional evidence which would constitute proper rebuttal evidence. The Court will not disturb the Magistrate's ruling and finds that the alleged rebuttal evidence was properly withheld.

The plaintiff in her appeal brief identifies one Noel Miller as a male who should have been discharged for violating the plant rule against loitering or loafing on the job. The Magistrate in Finding of Fact No. 39 found that:

"There was no factual evidence, or lay opinion evidence, that any male employee should have been discharged for loitering and loafing. Plaintiff failed to identify any male employee who has been suspended, and then continued loafing and loitering, thereby making discharge appropriate. Plaintiff thus produced no evidence on a crucial point: that there was a male employee who conducted himself in a manner similar to Plaintiff, but who was not discharged. Plaintiff failed to produce evidence of any valid comparison."

The Court finds that the plaintiff's identification of a male who should have been discharged for loitering and loafing is unpersuasive considering the absence of any record or evidence on the subject during the trial of the case. The plaintiff offered no evidence nor does she cite any place in the record which supports her claim that a male was treated differently. Therefore, the Court finds that employing the appropriate standard of review, the Magistrate's Findings of Fact and Conclusions of Law should be affirmed.

IT IS SO ORDERED this 9<sup>th</sup> day of December, 1983.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

R. E. TREADWELL,

Plaintiff,

vs.

STRINGER NURSERY, and  
P. M. STRINGER, JR.,

Defendants.

No. 86-C-600-E

**FILED**

DEC 9 1986

O R D E R

There being no response to the Defendants' motion to dismiss filed September 4, 1986 and more than ten (10) days having passed since the filing of the motion and extension of time having been sought by Plaintiff having passed the Court, pursuant to Local Rule 14(a), as amended effective March 1, 1981, concludes that Plaintiff has therefore waived any objection or opposition to the Defendants' motion to dismiss. See Woods Constr. Co. v. Atlas Chemical Indus., Inc., 337 F.2d 888, 890 (10th Cir. 1964).

The Defendants' motion to dismiss filed September 4, 1986 is therefore granted.

ORDERED this 9<sup>th</sup> day of December, 1986.

  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 9 1986

THE INTERNATIONAL INSURANCE  
COMPANY,

Plaintiff,

vs.

WESTINGHOUSE ELECTRIC  
CORPORATION,

Defendant.

No. 86-C-541-E

O R D E R

UPON the Joint Application of the Plaintiff, The International Insurance Company, and the Defendant, Westinghouse Electric Corporation, that the above-captioned case and all the claims asserted therein be dismissed with prejudice;

IT IS HEREBY ORDERED that the case of The International Insurance Company vs. Westinghouse Electric Corporation, United States District Court for the Northern District of Oklahoma, Case No. 86-C-541-E, is dismissed with prejudice and each party thereto shall bear its own costs, expenses and attorneys' fees.

S/ JAMES O. ELLISON

JAMES O. ELLISON  
United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

RALPH R. SMITH,

Plaintiff,

vs.

OTIS R. BOWEN, M.D.,  
Secretary of Health  
and Human Services,

Defendant.

No. 85-C-981-E

DEC 9 1986

O R D E R

The Court has before it for consideration the Defendant's Objections to the Findings and Recommendations of the Magistrate filed on August 20, 1986 in which it is recommended that Plaintiff's claim for benefits under the Social Security Act be reversed and remanded.

After careful consideration of the matters presented to it, the Court has concluded that the Findings and Recommendations of the Magistrate should be and hereby are affirmed.

IT IS HEREBY ORDERED that the Findings and Recommendations of the Magistrate be affirmed. This case is remanded to the Administrative Law Judge for further consideration in accordance with Findings and Recommendations entered August 20, 1986.

DATED this 9<sup>th</sup> day of December, 1986.

  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC 1986

ANGELA NEY AND JAMES NEY,

Plaintiffs,

vs.

No. 85-C-393-E

FARMERS INSURANCE GROUP,

Defendant and  
Third Party Plaintiff,

vs.

RONALD CONLEY AND OKLAHOMA  
FARMERS UNION INSURANCE  
COMPANY,

Third Party  
Defendants.

O R D E R

NOW on this 9<sup>th</sup> day of December, 1986 comes on for hearing the above styled case and the Court, being fully advised in the premises finds:

The Court has for consideration the objection of Plaintiffs to the Amended Report and Recommendation of the Magistrate filed October 2, 1986, in which the Magistrate recommended that Plaintiffs' motion for new trial be denied, and that Defendant's motion for summary judgment be granted.

After careful consideration of the record and the issues, the Court has concluded that the Report and Recommendation of the Magistrate should be and hereby is affirmed.

IT IS THEREFORE ORDERED that Plaintiffs' motion for new trial is denied.

IT IS FURTHER ORDERED that Defendant's motion for summary

judgment is granted for the reasons set forth in the Amended Report and Recommendation of United States Magistrate filed October 2, 1986.

It is so Ordered.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
JERRY W. McLAUGHLIN, a single )  
person; COUNTY TREASURER, )  
Tulsa County, Oklahoma; )  
BOARD OF COUNTY COMMISSIONERS, )  
Tulsa County, Oklahoma, )  
 )  
Defendants. ) CIVIL ACTION NO. 86-C-249-B

DEFICIENCY JUDGMENT

Now on this 8 day of December, 1986, there came on for hearing the Motion of the Plaintiff United States of America for leave to enter a Deficiency Judgment herein, said Motion being filed on December 4, 1986, and a copy of said Motion being mailed to Jerry W. McLaughlin, 6329 Northwest 63rd, Apartment 111, Oklahoma City, Oklahoma 73132. The Plaintiff, United States of America, acting on behalf of the Administrator of Veterans Affairs, appeared by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendant, Jerry W. McLaughlin, appeared neither in person nor by Counsel.

The Court upon consideration of said Motion finds that the amount of the Judgment rendered herein on May 19, 1986, in favor of the Plaintiff, United States of America, and against the Defendant, Jerry W. McLaughlin, with interest and costs to date of sale is \$43,839.65.

The Court further finds that the appraised value of the real property at the time of sale was \$32,000.00.



The Court further finds that the real property involved herein was sold at Marshal's sale, pursuant to the Judgment of this Court entered May 19, 1986, for the sum of \$30,076.50 which is less than the market value.

The Court further finds that the Plaintiff, United States of America on behalf of the Administrator of Veterans Affairs, is accordingly entitled to a deficiency judgment against the Defendant, Jerry W. McLaughlin, as follows:

Principal Balance as of 09/17/86	\$36,951.83
Interest	6,077.49
Late Charges	171.20
Appraisal	225.00
Management Broker Fees	180.00
Costs of Court	<u>234.13</u>
TOTAL	\$43,839.65
Less Credit of Appraised Value	- <u>32,000.00</u>
DEFICIENCY	\$11,839.55

plus interest on said deficiency judgment at the legal rate of 5.77 percent per annum from date of judgment until paid; said deficiency being the difference between the amount of Judgment rendered herein and the appraised value of the property herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the United States of America on behalf of the Administrator of Veterans Affairs have and recover from Defendant, Jerry W. McLaughlin, a deficiency judgment in the amount of \$11,839.65, plus interest at the legal rate of 5.77 percent per annum on said deficiency judgment from date of judgment until paid.

S/ THOMAS R. BRET

---

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

OKLAHOMA BLACK OFFICERS, INC., )  
et al., )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
CITY OF TULSA, OKLAHOMA, et al., )  
 )  
Defendants. )

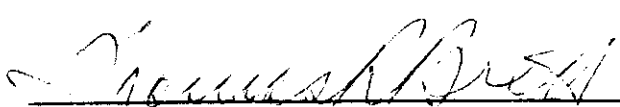
No. 83-C-246-B✓

HON. THOMAS R. BRETT

FINAL JUDGMENT OF NO CAUSE OF ACTION  
AGAINST PLAINTIFF OKLAHOMA BLACK OFFICERS, INC. AND  
IN FAVOR OF FRATERNAL ORDER OF POLICE  
AND ALL INDIVIDUALLY NAMED FOP DEFENDANTS

In accordance with the Order entered this date, it is  
HEREBY ORDERED AND ADJUDGED that final judgment is entered in  
favor of the Fraternal Order of Police and all individually named  
FOP Defendants and against Plaintiff Oklahoma Black Officers,  
Inc., and all claims of Plaintiff Oklahoma Black Officers, Inc.  
in this action and contained in the Third Amended and  
Supplemental Complaint against the Fraternal Order of Police and  
all individually named FOP Defendants are hereby dismissed with  
prejudice. The parties are to pay their respective costs,  
including attorney's fees.

Dated this 8<sup>th</sup> day of December, 1986.

  
THOMAS R. BRETT  
U. S. DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

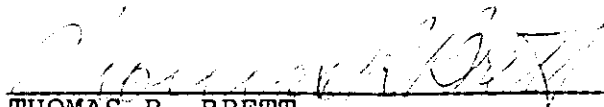
OKLAHOMA BLACK OFFICERS, INC., )  
et al., )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
CITY OF TULSA, OKLAHOMA, et al., )  
 )  
Defendants. )

No. 83-C-246-B ✓  
HON. THOMAS R. BRETT

FINAL JUDGMENT OF NO CAUSE OF ACTION  
AGAINST PLAINTIFF JOSEPH H. CURTIS, JR. AND  
IN FAVOR OF FRATERNAL ORDER OF POLICE  
AND ALL INDIVIDUALLY NAMED FOP DEFENDANTS

In accordance with the Order entered this date, it is  
HEREBY ORDERED AND ADJUDGED that final judgment is entered in  
favor of the Fraternal Order of Police and all individually named  
FOP Defendants and against Plaintiff Joseph H. Curtis, Jr., and  
all claims of Plaintiff Joseph H. Curtis, Jr. in this action and  
contained in the Third Amended and Supplemental Complaint against  
the Fraternal Order of Police and all individually named FOP  
Defendants are hereby dismissed with prejudice. The parties are  
to pay their respective costs, including attorney's fees.

Dated this 1 day of December, 1986.

  
THOMAS R. BRETT  
U. S. DISTRICT JUDGE

*Entered*

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

DEC 8 1986

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
JOE H. HOLDEN,	)	
	)	
Defendant.	)	CIVIL ACTION NO. 86-C-578-B

DEFAULT JUDGMENT

This matter comes on for consideration this 8th day of ~~November~~ *December*, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendant, Joe H. Holden, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Joe H. Holden, was served with Alias Summons and Complaint on October 22, 1986. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant,

Joe H. Holden, for the principal sum of \$386.46, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from December 28, 1983, and \$.68 per month from January 1, 1984 until judgment, plus interest thereafter at the current legal rate of 5.77 percent per annum until paid, plus costs of this action.

ST THOMAS R. BRETT

---

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

KY-e, Inc., et al

Plaintiff(s),

vs.

Great Steaks, et al

Defendant(s).

No. 86-C-119-E

O R D E R


Rule 36(a) of the Rules of the United States District Court for the Northern District of Oklahoma provides as follows:

(a) In any case in which no action has been taken by the parties for six (6) months, it shall be the duty of the Clerk to mail notice thereof to counsel of record or to the parties, if their post office addresses are known. If such notice has been given and no action has been taken in the case within thirty (30) days of the date of the notice, an order of dismissal may in the Court's discretion be entered.

In the action herein, notice pursuant to Rule 36(a) was mailed to counsel of record or to the parties, at their last address of record with the Court, on July 21, 1986. No action has been taken in the case within thirty (30) days of the date of the notice.

Therefore, it is the Order of the Court that this action is in all respects dismissed.

Dated this 8<sup>th</sup> day of December, 1986.

  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**F I L E D**

DEC 8 1986

OBO, et al.,

Plaintiffs,

**VS.**

CITY OF TULSA, et al.,

Defendants.

Jack C. ...  
U.S. DISTRICT ...

No. 83-C-246-B

## CONSENT DECREE

D. D. Barnett, an individual, filed this action as one of several Plaintiffs against the City of Tulsa, several officials thereof, and, inter alia, the Tulsa Fraternal Order of Police Lodge No. 93 and the officers and directors thereof individually.

The Complaint in this matter alleges inter alia that the F.O.P. Lodge and its representatives have conspired with the City of Tulsa and its representatives to discriminate against black citizens in hiring, promotions, working conditions, union representation, and other aspects of the administration and operation of the Tulsa Police Department.

Plaintiff Barnett and the other Plaintiffs in this action allege that the Defendants violated the Constitutional rights of the Plaintiffs on account of the Plaintiffs' race, all in violation of 42 U.S.C. §§ 1981, 1983, 1985(3), and 1988, as well as Title VII of the 1964 Civil Rights Act as amended, 42 U.S.C.

§ 2000(C), and Oklahoma Statutes: 12 O.S. §§ 303 and 1442, 25 O.S. §§ 1601, 1603, and 1605, and 76 O.S. §§ 6 and 7. Plaintiffs allege that the Defendants, in so doing, deprived the Plaintiffs of the civil rights secured for them by the First, Fifth, Thirteenth, and Fourteenth Amendments to the United States Constitution.

Each Defendant in this matter, including the F.O.P. and its officers and directors, has denied all allegations by the Plaintiffs, has denied any violation of the aforesaid laws and Constitution, and has denied any racial discrimination whatsoever against any of the Plaintiffs. The F.O.P. Lodge and its representatives deny that there has been any conspiracy whatsoever against the Plaintiffs and, in particular, deny that there has been any conspiracy or action to deny the rights of Plaintiff D. D. Barnett.

The F.O.P. Lodge and its representatives further specifically deny that any Lodge officer, director, trustee or member in any Lodge representative capacity has discriminated against, or attempted to deprive, Plaintiff D. D. Barnett of any rights or benefits in connection with fair and equal employment and treatment. Further, the F.O.P. Lodge and its representatives specifically deny any breach of their duty to represent D. D. Barnett or other black citizens fairly and equally. The F.O.P. Lodge and its representatives assert and maintain that they have acted as bargaining agent and fraternal organization without any



racial discrimination or other arbitrary treatment, and have represented and pursued the interests of all Tulsa police officers fairly and vigorously, and regardless of race or color.

The F.O.P. Lodge and its representatives, however, are desirous of avoiding the joinder, expense, and uncertainty of further contested litigation concerning Plaintiff D. D. Barnett. Further, the F.O.P. Lodge and its representatives are desirous of eliminating any disadvantages or discrimination encountered by Plaintiff D. D. Barnett in his employment with the Tulsa Police Department, and also desire that he should enjoy all benefits of fair and equal treatment under the law while so employed.

The Tulsa Fraternal Order of Police Lodge No. 93, therefore, hereby agrees and consents to the entry of this Decree. The parties signatory hereto, by agreeing and consenting to the entry of this Decree, stipulate to the jurisdiction of the Court over the respective parties and acknowledge the Court has jurisdiction over the subject matter of this action, and waive a hearing and the entry of findings of facts and conclusions of law on all issues involved herein as they affect the rights of the parties signatory hereto.

However, this Decree shall constitute neither an admission by the parties signatory hereto nor an adjudication by the Court on the merits, if any, of the allegations of Plaintiff D. D. Barnett.

This agreement is entered into as a settlement of an existing dispute between the Plaintiff D. D. Barnett and the Defendant Tulsa Fraternal Order of Police Lodge 93, its officers, directors, trustees, and members.

This Consent Decree satisfies and finally resolves all claims, actual or potential, of Plaintiff D. D. Barnett with respect to all allegations of racial discrimination and/or union representation set forth or referred to in his Third Amended and Supplemental Complaint, or which could have been raised in his Third Amended and Supplemental Complaint.

Plaintiff D. D. Barnett shall seek no further relief for the acts, practices, or omissions alleged or referred to in the Third Amended and Supplemental Complaint, save to enforce the provisions of this Decree, thereby waiving forever the right to seek any further relief, whether legal or equitable, as to the Defendant Tulsa Fraternal Order of Police Lodge 93, its members, officers, directors, and trustees, past, current, or future. Plaintiff D. D. Barnett understands and agrees that this Consent Decree is fully binding individually upon him and upon his heirs, successors, assigns, executors, etc. Defendant F.O.P. Lodge agrees that this Consent Decree is fully binding on the Lodge and each of its officers, trustees, directors, and successors.

The parties further aver that action to enforce this Decree may be properly maintained by Plaintiff D. D. Barnett.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The major purpose of this Decree is to insure Plaintiff D. D. Barnett is afforded fair representation and equal treatment with all Tulsa police officers by his exclusive bargaining agent, the Tulsa Fraternal Order of Police Lodge No. 93. That the Defendant F.O.P. Lodge affirms and shall seek in good faith to afford Plaintiff D. D. Barnett fair and equal treatment in his employment and will instruct Lodge membership on affirmative action and equal opportunities. That Defendant F.O.P. Lodge will strive to discourage discriminatory practices, if any, by Lodge members, or by any other persons wearing the uniform of a Tulsa police officer within the Lodge's legal powers.

2. The Defendants agree to make known their policies and practices of non-discrimination periodically.

3. To encourage the recruitment, hiring, training, and fair promotional consideration of black officers.

4. To afford and encourage membership by blacks in the Fraternal Order of Police Lodge No. 93, and further that Defendant Lodge shall not retaliate or discriminate against any person or officer who opposes racially discriminatory policies or practices because of that person's participation in or cooperation with the initiation, investigation, or litigation of any charge of discrimination based on race or the administration of this Decree, nor discriminate against an officer because of membership in, or activity on behalf of, Oklahoma Black Officers or its successor. However, it shall not be a violation of this

Decree for the F.O.P. Lodge to take all lawful measures to protect and preserve its status as exclusive bargaining agent for Tulsa police officers.

5. The Tulsa F.O.P. hereby agrees and consents to encourage full investigation of all complaints by black police officers concerning alleged racial discrimination by the City of Tulsa and further agrees and consents to make attempts in collective bargaining to rectify such discrimination by the City, if the complainant notifies the Lodge President in writing, provided that such attempts are within the legal power of the Lodge, and taking into account the limited financial resources of the Lodge. The Lodge agrees that any such budgetary decisions shall not be made in a discriminatory fashion.

6. The F.O.P. Lodge shall not be considered in violation of this Decree unless the aggrieved officer first files a written complaint with the Lodge President and gives the Lodge a fair opportunity to remedy the alleged violation or take other appropriate action.

7. The Court hereby gives its tentative approval to this Consent Decree, subject to the notification of all parties Plaintiff and Defendant and the provision of an opportunity for them to file objections. This notice shall be mailed to each identified party Plaintiff and Defendant by certified mail, return receipt requested. Costs will be borne by Defendant Fraternal Order of Police Lodge No. 93. Plaintiffs and Defendants who file

written objections shall be entitled to be heard at a hearing before this Court. If no written objections are filed within thirty (30) days of mailing, this Consent Decree shall become final without further action by this Court.

Entered this 8th day of December, 1986.

ST. THOMAS R. BRETT

Honorable Thomas R. Brett  
United States District Court Judge

APPROVED AS TO FORM AND CONTENT:

Richard Quiggle  
Morris Thompson

Richard Quiggle  
Morris Thompson  
Attorneys for Plaintiff  
904 West Second Street  
P. O. Box 2651  
Little Rock, Arkansas 72203

Donald M. Bingham  
Hal F. Morris

Donald M. Bingham  
Hal F. Morris  
Attorneys for Defendant F.O.P. and  
individually named F.O.P. Defendants  
502 West Sixth Street  
Tulsa, Oklahoma 74119

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**F I L E D**

DEC 8 1986

OBO, et al.,

Plaintiffs,

VS.

CITY OF TULSA, et al.,

Defendants.

Jack C. ...  
U.S. DISTRICT ...

No. 83-C-246-B

## CONSENT DECREE

James Wimberly, an individual, filed this action as one of several Plaintiffs against the City of Tulsa, several officials thereof, and, inter alia, the Tulsa Fraternal Order of Police Lodge No. 93 and the officers and directors thereof individually.

The Complaint in this matter alleges inter alia that the F.O.P. Lodge and its representatives have conspired with the City of Tulsa and its representatives to discriminate against black citizens in hiring, promotions, working conditions, union representation, and other aspects of the administration and operation of the Tulsa Police Department.

Plaintiff Wimberly and the other Plaintiffs in this action allege that the Defendants violated the Constitutional rights of the Plaintiffs on account of the Plaintiffs' race, all in violation of 42 U.S.C. §§ 1981, 1983, 1985(3), and 1988, as well as Title VII of the 1964 Civil Rights Act as amended, 42 U.S.C.

§ 2000(C), and Oklahoma Statutes: 12 O.S. §§ 303 and 1442, 25 O.S. §§ 1601, 1603, and 1605, and 76 O.S. §§ 6 and 7. Plaintiffs allege that the Defendants, in so doing, deprived the Plaintiffs of the civil rights secured for them by the First, Fifth, Thirteenth, and Fourteenth Amendments to the United States Constitution.

Each Defendant in this matter, including the F.O.P. and its officers and directors, has denied all allegations by the Plaintiffs, has denied any violation of the aforesaid laws and Constitution, and has denied any racial discrimination whatsoever against any of the Plaintiffs. The F.O.P. Lodge and its representatives deny that there has been any conspiracy whatsoever against the Plaintiffs and, in particular, deny that there has been any conspiracy or action to deny the rights of Plaintiff James Wimberly.

The F.O.P. Lodge and its representatives further specifically deny that any Lodge officer, director, trustee or member in any Lodge representative capacity has discriminated against, or attempted to deprive, Plaintiff James Wimberly of any rights or benefits in connection with fair and equal employment and treatment. Further, the F.O.P. Lodge and its representatives specifically deny any breach of their duty to represent James Wimberly or other black citizens fairly and equally. The F.O.P. Lodge and its representatives assert and maintain that they have acted as bargaining agent and fraternal organization without any

racial discrimination or other arbitrary treatment, and have represented and pursued the interests of all Tulsa police officers fairly and vigorously, and regardless of race or color.

The F.O.P. Lodge and its representatives, however, are desirous of avoiding the joinder, expense, and uncertainty of further contested litigation concerning Plaintiff James Wimberly. Further, the F.O.P. Lodge and its representatives are desirous of eliminating any disadvantages or discrimination encountered by Plaintiff James Wimberly in his employment with the Tulsa Police Department, and also desire that he should enjoy all benefits of fair and equal treatment under the law while so employed.

The Tulsa Fraternal Order of Police Lodge No. 93, therefore, hereby agrees and consents to the entry of this Decree. The parties signatory hereto, by agreeing and consenting to the entry of this Decree, stipulate to the jurisdiction of the Court over the respective parties and acknowledge the Court has jurisdiction over the subject matter of this action, and waive a hearing and the entry of findings of facts and conclusions of law on all issues involved herein as they affect the rights of the parties signatory hereto.

However, this Decree shall constitute neither an admission by the parties signatory hereto nor an adjudication by the Court on the merits, if any, of the allegations of Plaintiff James Wimberly.



This agreement is entered into as a settlement of an existing dispute between the Plaintiff James Wimberly and the Defendant Tulsa Fraternal Order of Police Lodge 93, its officers, directors, trustees, and members.

This Consent Decree satisfies and finally resolves all claims, actual or potential, of Plaintiff James Wimberly with respect to all allegations of racial discrimination and/or union representation set forth or referred to in his Third Amended and Supplemental Complaint, or which could have been raised in his Third Amended and Supplemental Complaint.

Plaintiff James Wimberly shall seek no further relief for the acts, practices, or omissions alleged or referred to in the Third Amended and Supplemental Complaint, save to enforce the provisions of this Decree, thereby waiving forever the right to seek any further relief, whether legal or equitable, as to the Defendant Tulsa Fraternal Order of Police Lodge 93, its members, officers, directors, and trustees, past, current, or future. Plaintiff James Wimberly understands and agrees that this Consent Decree is fully binding individually upon him and upon his heirs, successors, assigns, executors, etc. Defendant F.O.P. Lodge agrees that this Consent Decree is fully binding on the Lodge and each of its officers, trustees, directors, and successors.

The parties further aver that action to enforce this Decree may be properly maintained by Plaintiff James Wimberly.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The major purpose of this Decree is to insure Plaintiff James Wimberly is afforded fair representation and equal treatment with all Tulsa police officers by his exclusive bargaining agent, the Tulsa Fraternal Order of Police Lodge No. 93. That the Defendant F.O.P. Lodge affirms and shall seek in good faith to afford Plaintiff James Wimberly fair and equal treatment in his employment and will instruct Lodge membership on affirmative action and equal opportunities. That Defendant F.O.P. Lodge will strive to discourage discriminatory practices, if any, by Lodge members, or by any other persons wearing the uniform of a Tulsa police officer within the Lodge's legal powers.

2. The Defendants agree to make known their policies and practices of non-discrimination periodically.

3. To encourage the recruitment, hiring, training, and fair promotional consideration of black officers.

4. To afford and encourage membership by blacks in the Fraternal Order of Police Lodge No. 93, and further that Defendant Lodge shall not retaliate or discriminate against any person or officer who opposes racially discriminatory policies or practices because of that person's participation in or cooperation with the initiation, investigation, or litigation of any charge of discrimination based on race or the administration of this Decree, nor discriminate against an officer because of membership in, or activity on behalf of, Oklahoma Black Officers or its successor. However, it shall not be a violation of this

Decree for the F.O.P. Lodge to take all lawful measures to protect and preserve its status as exclusive bargaining agent for Tulsa police officers.

5. The Tulsa F.O.P. hereby agrees and consents to encourage full investigation of all complaints by black police officers concerning alleged racial discrimination by the City of Tulsa and further agrees and consents to make attempts in collective bargaining to rectify such discrimination by the City, if the complainant notifies the Lodge President in writing, provided that such attempts are within the legal power of the Lodge, and taking into account the limited financial resources of the Lodge. The Lodge agrees that any such budgetary decisions shall not be made in a discriminatory fashion.

6. The F.O.P. Lodge shall not be considered in violation of this Decree unless the aggrieved officer first files a written complaint with the Lodge President and gives the Lodge a fair opportunity to remedy the alleged violation or take other appropriate action.

7. The Court hereby gives its tentative approval to this Consent Decree, subject to the notification of all parties Plaintiff and Defendant and the provision of an opportunity for them to file objections. This notice shall be mailed to each identified party Plaintiff and Defendant by certified mail, return receipt requested. Costs will be borne by Defendant Fraternal Order of Police Lodge No. 93. Plaintiffs and Defendants who file


written objections shall be entitled to be heard at a hearing before this Court. If no written objections are filed within thirty (30) days of mailing, this Consent Decree shall become final without further action by this Court.


Entered this 8th day of December, 1986.

S/ THOMAS R. BRETT

Honorable Thomas R. Brett  
United States District Court Judge

APPROVED AS TO FORM AND CONTENT:

  
Richard Quiggle  
Morris Thompson  
Attorneys for Plaintiff  
904 West Second Street  
P. O. Box 2651  
Little Rock, Arkansas 72203

  
Donald M. Bingham  
Hal F. Morris  
Attorneys for Defendant F.O.P. and  
individually named F.O.P. Defendants  
502 West Sixth Street  
Tulsa, Oklahoma 74119

DEC 8 1982

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

OKLAHOMA BLACK OFFICERS, INC.,	)	
et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	No. 83-C-246-B ✓
	)	
CITY OF TULSA, OKLAHOMA, et al.,	)	HON. THOMAS R. BRETT
	)	
Defendants.	)	

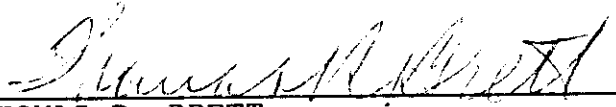
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ORDER OF DISMISSAL WITH PREJUDICE OF ALL CLAIMS  
OF PLAINTIFF LARRY DARNELL SMITH AGAINST  
FRATERNAL ORDER OF POLICE AND ALL  
INDIVIDUALLY NAMED FOP DEFENDANTS

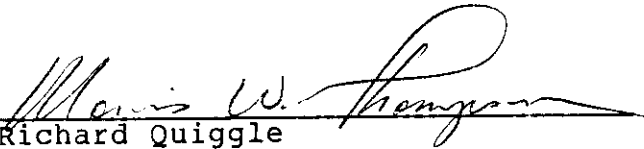
This matter having come before the Court upon the filing of the attached Stipulation, the Court being advised in the premises and good cause having been shown, now therefore:

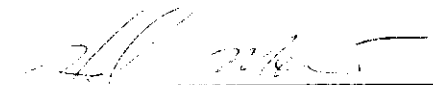
IT IS HEREBY ORDERED AND ADJUDGED that all claims and causes of action of Plaintiff Larry Darnell Smith against the Defendant Fraternal Order of Police and all individually named FOP Defendants in the above-referenced action and contained in the Third Amended and Supplemental Complaint shall be and are hereby dismissed with prejudice;

IT IS FURTHER ORDERED AND ADJUDGED that no party shall be entitled to attorney's fees or costs as a result of this Order.

  
THOMAS R. BRETT  
U.S. DISTRICT COURT JUDGE

APPROVED AS TO FORM AND CONTENT:

  
Richard Quiggle  
Morris Thompson  
Attorneys for Plaintiffs

  
Donald M. Bingham  
Hal F. Morris  
Attorneys for Fraternal Order of  
Police and all Individually Named  
FOP Defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC 8 am

OKLAHOMA BLACK OFFICERS, INC., )  
et al., )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
CITY OF TULSA, OKLAHOMA, et al., )  
 )  
Defendants. )

No. 83-C-246-B ✓

HON. THOMAS R. BRETT

ORDER OF DISMISSAL WITH PREJUDICE OF ALL CLAIMS  
OF PLAINTIFF JOSEPH H. CURTIS, JR. AGAINST  
FRATERNAL ORDER OF POLICE AND ALL  
INDIVIDUALLY NAMED FOP DEFENDANTS

This matter having come before the Court upon the filing of the attached Stipulation, the Court being advised in the premises and good cause having been shown, now therefore:

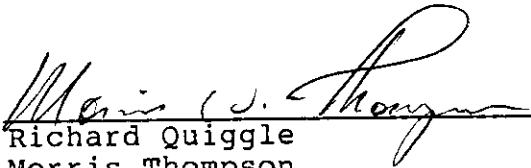
IT IS HEREBY ORDERED AND ADJUDGED that all claims and causes of action of Plaintiff Joseph H. Curtis, Jr. against the Defendant Fraternal Order of Police and all individually named FOP Defendants in the above-referenced action and contained in the Third Amended and Supplemental Complaint shall be and are hereby dismissed with prejudice;

IT IS FURTHER ORDERED AND ADJUDGED that no party shall be entitled to attorney's fees or costs as a result of this Order.

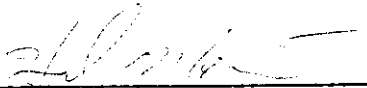


THOMAS R. BRETT  
U.S. DISTRICT COURT JUDGE

APPROVED AS TO FORM AND CONTENT:



Richard Quiggle  
Morris Thompson  
Attorneys for Plaintiffs



Donald M. Bingham  
Hal F. Morris  
Attorneys for Fraternal Order of  
Police and all Individually Named  
FOP Defendants



EC 8 Nov

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

OKLAHOMA BLACK OFFICERS, INC.,	)	
et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	No. 83-C-246-B
	)	
CITY OF TULSA, OKLAHOMA, et al.,	)	HON. THOMAS R. BRETT
	)	
Defendants.	)	

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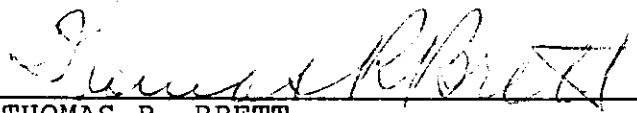
ORDER OF DISMISSAL WITH PREJUDICE OF ALL CLAIMS  
OF PLAINTIFF CURTIS PRICE, JR. AGAINST  
FRATERNAL ORDER OF POLICE AND ALL  
INDIVIDUALLY NAMED FOP DEFENDANTS

This matter having come before the Court upon the filing of the attached Stipulation, the Court being advised in the premises and good cause having been shown, now therefore:

IT IS HEREBY ORDERED AND ADJUDGED that all claims and causes of action of Plaintiff Curtis Price, Jr. against the Defendant Fraternal Order of Police and all individually named FOP Defendants in the above-referenced action and contained in the Third Amended and Supplemental Complaint shall be and are hereby dismissed with prejudice;

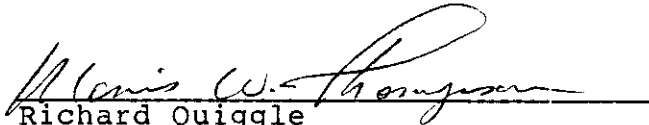
394

IT IS FURTHER ORDERED AND ADJUDGED that no party shall be entitled to attorney's fees or costs as a result of this Order.

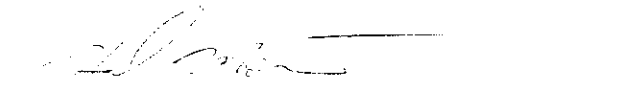


THOMAS R. BRETT  
U.S. DISTRICT COURT JUDGE

APPROVED AS TO FORM AND CONTENT:



Richard Quiggle  
Morris Thompson  
Attorneys for Plaintiffs



Donald M. Bingham  
Hal F. Morris  
Attorneys for Fraternal Order of  
Police and all Individually Named  
FOP Defendants



*Entered*

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

DEC -8 1935

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

G. H. NICHOLS, MIDWESTERN  
PRODUCTS INC. and  
MIDCO, INC.,

Plaintiffs,

vs.

MESSER GRIESHEIM INDUSTRIES,  
INC.,

Defendant.

No. 86-C-723-C ✓

O R D E R

Now before the Court for its consideration is the motion to dismiss brought by the defendant. Defendant asserts that plaintiffs' "petition" or complaint fails to establish a sufficient basis for the diversity jurisdiction of a federal district court by omitting to allege the state of incorporation and principal place of business of the corporate plaintiffs to this action.

In response, plaintiffs attach a proposed Amendment to Petition setting forth the citizenship or residency of the parties to the litigation. The Court finds that plaintiffs' proposed Amendment to Petition is sufficient to cure the alleged defect and hereby directs the Court Clerk to file the Amendment to Petition of record.


Defendant also seeks dismissal of Midwestern Products, Inc. as a party plaintiff for lack of capacity to sue. Defendant has

attached as an exhibit to its motion a copy of the Secretary of State's Certificate of Suspension of the corporate charter for plaintiff Midwestern Products, Inc. Under Oklahoma law, the State Tax Commission may direct suspension of a corporate charter with the forfeiture of all corporate rights. 68 O.S. §1212(a). When the Secretary of State forfeits the rights of a corporation under this statute, it is not entitled to sue or be sued. State ex rel Dept. of Highways v. Martin, 572 P.2d 611, 614 (Okla.App. 1977).

Rule 17(b) F.R.Cv.P. provides that the capacity of a corporation to sue shall be determined by the law of the state of incorporation. Therefore the Court finds plaintiff Midwestern Products, Inc. is not a proper party before the Court and lacks capacity to sue.

WHEREFORE, premises considered, it is the Order of the Court that the motion to dismiss brought by defendant is denied in part and granted in part. The Court hereby directs the Court Clerk to file of record plaintiff's proposed Amendment to Petition. It is the further Order of the Court that plaintiff Midwestern Products, Inc. is dismissed as a party-plaintiff.

IT IS SO ORDERED this 7 day of December, 1986.

  
H. DALE COOK  
Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

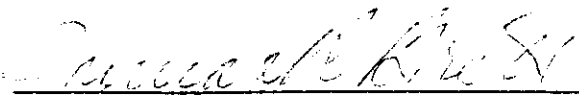
OKLAHOMA BLACK OFFICERS, INC., )  
et al., )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
CITY OF TULSA, OKLAHOMA, et al., )  
 )  
Defendants. )

No. 83-C-246-B ✓  
HON. THOMAS R. BRETT

FINAL JUDGMENT OF NO CAUSE OF ACTION  
AGAINST PLAINTIFF AHMAD N. SHADEED AND  
IN FAVOR OF FRATERNAL ORDER OF POLICE  
AND ALL INDIVIDUALLY NAMED FOP DEFENDANTS

In accordance with the Order entered this date, it is  
HEREBY ORDERED AND ADJUDGED that final judgment is entered in  
favor of the Fraternal Order of Police and all individually named  
FOP Defendants and against Plaintiff Ahmad N. Shadeed, and all  
claims of Plaintiff Ahmad N. Shadeed in this action and contained  
in the Third Amended and Supplemental Complaint against the  
Fraternal Order of Police and all individually named FOP  
Defendants are hereby dismissed with prejudice. The parties are  
to pay their respective costs, including attorney's fees.

Dated this 8<sup>th</sup> day of December, 1986.

  
THOMAS R. BRETT  
U. S. DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

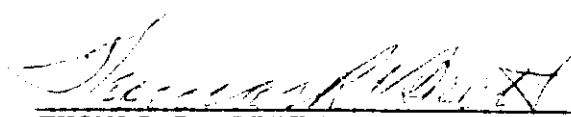
OKLAHOMA BLACK OFFICERS, INC., )  
et al., )  
 )  
Plaintiffs, )  
 )  
vs. ) No. 83-C-246-B ✓  
 )  
CITY OF TULSA, OKLAHOMA, et al., ) HON. THOMAS R. BRETT  
 )  
Defendants. )

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**FINAL JUDGMENT OF NO CAUSE OF ACTION**  
**AGAINST PLAINTIFF LARRY JACKSON AND**  
**IN FAVOR OF FRATERNAL ORDER OF POLICE**  
**AND ALL INDIVIDUALLY NAMED FOP DEFENDANTS**

In accordance with the Order entered this date, it is  
HEREBY ORDERED AND ADJUDGED that final judgment is entered in  
favor of the Fraternal Order of Police and all individually named  
FOP Defendants and against Plaintiff Larry Jackson, and all  
claims of Plaintiff Larry Jackson in this action and contained in  
the Third Amended and Supplemental Complaint against the  
Fraternal Order of Police and all individually named FOP  
Defendants are hereby dismissed with prejudice. The parties are  
to pay their respective costs, including attorney's fees.

Dated this 15th day of December, 1986.

  
THOMAS R. BRETT  
U. S. DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

OKLAHOMA BLACK OFFICERS, INC., )  
et al., )  
 )  
Plaintiffs, )  
 )  
vs. ) No. 83-C-246-B ✓  
 )  
CITY OF TULSA, OKLAHOMA, et al., ) HON. THOMAS R. BRETT  
 )  
Defendants. )

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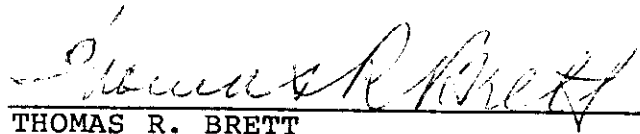
ORDER OF DISMISSAL WITH PREJUDICE OF ALL CLAIMS  
OF PLAINTIFF WENDELL LEROY SMITH AGAINST  
FRATERNAL ORDER OF POLICE AND ALL  
INDIVIDUALLY NAMED FOP DEFENDANTS

This matter having come before the Court upon the filing of the attached Stipulation, the Court being advised in the premises and good cause having been shown, now therefore:

IT IS HEREBY ORDERED AND ADJUDGED that all claims and causes of action of Plaintiff Wendell Leroy Smith against the Defendant Fraternal Order of Police and all individually named FOP Defendants in the above-referenced action and contained in the Third Amended and Supplemental Complaint shall be and are hereby dismissed with prejudice;

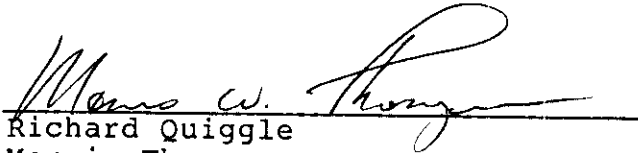


IT IS FURTHER ORDERED AND ADJUDGED that no party shall be entitled to attorney's fees or costs as a result of this Order.



THOMAS R. BRETT  
U.S. DISTRICT COURT JUDGE

APPROVED AS TO FORM AND CONTENT:



Richard Quiggle  
Morris Thompson  
Attorneys for Plaintiffs



Donald M. Bingham  
Hal F. Morris  
Attorneys for Fraternal Order of  
Police and all Individually Named  
FOP Defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

OKLAHOMA BLACK OFFICERS, INC., )  
et al., )

Plaintiffs, )

vs. )

CITY OF TULSA, OKLAHOMA, et al., )

Defendants. )


No. 83-C-246-B ✓

HON. THOMAS R. BRETT

FINAL JUDGMENT OF NO CAUSE OF ACTION  
AGAINST PLAINTIFF WENDELL LEROY SMITH AND  
IN FAVOR OF FRATERNAL ORDER OF POLICE  
AND ALL INDIVIDUALLY NAMED FOP DEFENDANTS

In accordance with the Order entered this date, it is  
HEREBY ORDERED AND ADJUDGED that final judgment is entered in  
favor of the Fraternal Order of Police and all individually named  
FOP Defendants and against Plaintiff Wendell Leroy Smith, and all  
claims of Plaintiff Wendell Leroy Smith in this action and con-  
tained in the Third Amended and Supplemental Complaint against  
the Fraternal Order of Police and all individually named FOP  
Defendants are hereby dismissed with prejudice. The parties are  
to pay their respective costs, including attorney's fees.

Dated this 21<sup>st</sup> day of December, 1986.

  
\_\_\_\_\_  
THOMAS R. BRETT  
U. S. DISTRICT JUDGE

*Entered*

JHL:ve

**FILED**

IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF OKLAHOMA

DEC 8 1986

PATRICIA BROWN, individually,  
and as Natural Mother and Next  
Friend of RONALD WAYNE BROWN, JR.,  
and JULIE MARIE BROWN, minor  
children,

Plaintiffs,

v.

TOWN OF SALINA, OKLAHOMA, a,  
municipal corporation, and Police  
Officer DELBERT WAYNE DABBS,

Defendants.

Case No. 86-C-381-B

J. C. C.  
U.S. DIST.

ORDER OF DISMISSAL

ON THIS 8 day of December 1986, there comes on for consideration the Application of the parties to Dismiss With Prejudice. The Court finds that the parties have entered into a compromise settlement covering all claims involved in the lawsuit and have requested the Court to dismiss the Complaint and all causes of action with prejudice to any future action. The Court finds that the parties have agreed on the payment of \$500.00 on behalf of each minor plaintiff for the damages alleged in this lawsuit, and the Court finds that the amount agreed upon is fair and reasonable under the circumstances of the case and should be approved. The Court finds that the settlement is in the best interests of all parties, including the minor plaintiffs and, therefore, finds that the entire settlement should be approved.

IT IS, THEREFORE, ordered, adjudged and decreed by the Court that the Complaint and all causes of action of the Plaintiffs, including the minor plaintiffs, be and the same are hereby dismissed with prejudice to any future action. It is further ordered, adjudged and decreed by the Court that, out of the settlement proceeds, the sum of \$500.00 is to be paid to Patricia Brown as next friend of Ronald Wayne Brown, Jr. and for the use and benefit of Ronald Wayne Brown, Jr. for damages which he allegedly sustained as described in this lawsuit. It is further ordered, adjudged and decreed by the Court that the sum of \$500.00 is to be paid to Patricia Brown as next friend of Julie Marie Brown and for the use and benefit of Julie Marie Brown for damages which she allegedly sustained as described in this lawsuit.

Dated: December 8, 1986

S/ THOMAS R. BREIT

---

JUDGE OF THE U.S. DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

ALBERT J. MARRARA,

Plaintiff,

v.

SCRIPPS-HOWARD BROADCASTING  
COMPANY, an Ohio corporation,

Defendant.

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)

No. 86-C-365-BL

DEC 8 1986 nm

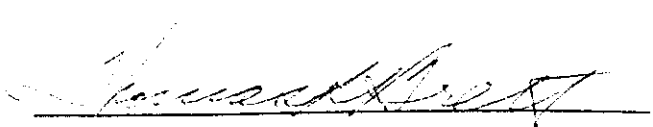
U.S. DIST.

J U D G M E N T

In accordance with the jury verdict of November 25, 1986, Judgment is hereby entered for the defendant, Scripps-Howard Broadcasting Company, and against the plaintiff, Albert J. Marrara.

IT IS ORDERED AND ADJUDGED that the plaintiff, Albert J. Marrara, take nothing, and that the defendant, Scripps-Howard Broadcasting Company, recover of the plaintiff its costs of action.

DATED this 8<sup>th</sup> day of December, 1986.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

*Entered*

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

DEC -8 1965

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

MONICA McCABE,

Plaintiff,

vs.

No. 86-C-827-C ✓

BOARD OF COUNTY COMMISSIONERS,  
TULSA COUNTY, OKLAHOMA and  
JOHN F. CANTRELL,

Defendants.

O R D E R

Now before the Court for its consideration is the motion to dismiss brought by the defendants Board of County Commissioners of Tulsa County, Oklahoma and John F. Cantrell, Tulsa County Treasurer. Defendants bring their motion to dismiss plaintiff's complaint for declaratory judgment pursuant to Rule 12(b)(6) for failure of plaintiff to state an actual existing controversy upon which declaratory judgment can be granted, and pursuant to Rule 12(b)(1) F.R.Cv.P. for lack of subject matter jurisdiction.

Plaintiff is the daughter of Monica Sharum who is now deceased. Plaintiff alleges that she received, through an Executor's Deed dated May 17, 1965, an undivided one-fourth ( $\frac{1}{4}$ ) mineral interest in property which was owned by her mother. In her amended complaint plaintiff alleges the defendants conspired to deprive plaintiff of her property rights "by swearing under oath in a lawsuit that said property was conveyed to a purchaser

at a tax sale by a Certificate Surface Tax Deed." Plaintiff alleges that these acts by defendants constitute an unlawful conspiracy to deny plaintiff of her property without due process of law in violation of her constitutional rights.

In their motion to dismiss, defendants assert that Mrs. Sharum's property was sold at a November 5, 1962 tax sale for non-payment of delinquent ad valorem taxes, interest, penalties and costs. Defendants assert that Charles Pearce was the purchaser at the tax sale and received a County Treasurer's Certificate Tax Deed, dated February 6, 1967.

Charles Pearce instituted, in state court, a Quiet Title action on September 29, 1978 naming, among others, Monica Sharum, her heirs and the defendants herein as parties, to quiet title in the subject property. On December 4, 1978, the state court quieted title in Charles Pearce against all named defendants; and a Journal Entry of Judgment was filed.

On July 29, 1985, Monica McCabe filed an action in state court naming defendants herein and others as parties. Her causes of action included a suit for quiet title in the mineral estate, conversion, and vacating the above-mentioned Journal Entry of Judgment. Plaintiff alleges that the property was sold under a void tax deed for failure to give notice to the severed mineral owners of the tax sale. The action is currently pending in the District Court of Tulsa County, Oklahoma before Judge Jane Wiseman.

In her declaratory judgment action before this Court, plaintiff argues that the Court should assume jurisdiction to

protect her constitutional rights and that an actual justiciable controversy exists between the parties. Plaintiff asserts this Court should not abstain or dismiss her complaint because the state court action has been stayed. Upon review of the state court docket sheet filed by plaintiff as an exhibit to her responsive pleading, the Court finds discovery has been held in abeyance pending a decision by the state court of defendant's motion for summary judgment on the issue of validity of the December 4, 1978 Journal Entry of Judgment; the action itself has not been stayed.

The claim asserted by plaintiff before this Court would require the parties to litigate the merits of whether plaintiff is the rightful owner of the mineral estate within the subject property. For this Court to enter a declaratory judgment, it would be necessary to make findings regarding the statutory process, procedures and the Oklahoma case law interpretation of ad valorem tax collection. This Court, however, does not have subject matter jurisdiction for such a determination. Title 28 U.S.C. §1341, the Tax Injunctive Act, provides:

The district courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax under state law where a plain, speedy and efficient remedy may be had in the courts of such state.

This statute has been held to constitute a "broad jurisdictional impediment" to federal court interference with the administration of the state tax system. United Gas Pipeline Co. v. Whitman, 595 F.2d 323 (5th Cir. 1979). Understandably, the courts of the State of Oklahoma have extensive familiarity and experience with



the ad valorem tax laws. By going through the proper appeals process, state adjudication may well avoid the necessity of a decision on federal constitutional questions. State proceedings may also avoid needless friction in federal-state relations over the administration of purely state affairs. Fralin and Waldron v. Martinville, Virginia, 493 F.2d 481, 483 (4th Cir. 1974).


Under traditional notions of comity and federalism, this Court should abstain from exercising jurisdiction. In Fair Assessment in Real Estate Association v. McNary, 454 U.S. 100 (1981), the Supreme Court recognized that the doctrine of equitable restraint is applicable and federal courts should refrain from rendering declaratory judgments in actions involving the state tax laws.

From a review of the pleadings, the Court finds plaintiff has failed to show that the state court action does not provide a plain, speedy and efficient remedy for her cause of action. The state court action pending before Judge Wiseman has proceeded through several stages of discovery and a hearing on defendants' motion for summary judgment.

Further, federal courts have discretionary authority to dismiss a federal suit when a state court action previously filed parallels the federal cause of action. Such a deferral to a state court for reasons of "wise judicial administration" was recognized by the Supreme Court in Colorado River Water Conservation District v. United States, 424 U.S. 800 (1976).

WHEREFORE, premises considered, it is the Order of the Court that the motion to dismiss brought by the defendants Board of County Commissioners and John F. Cantrell is hereby granted.

IT IS SO ORDERED this 8th day of December, 1986.

  
H. DALE COOK  
Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC -8 1986

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

LEE WRIGHT,

Plaintiff,

vs.

No. 86-C-635-C ✓

TOWN OF ADAIR, OKLAHOMA;  
TOMMY FRAZIER; JOE WARD;  
FRED CANNADY; JIM EASTERN  
and GARY CALVERT, SR.,

Defendants.

J U D G M E N T

This action came before the Court on defendants' motion for summary judgment, the issues having been duly tried and a decision having been duly rendered,

IT IS SO ORDERED AND ADJUDGED that Judgment be entered in behalf of the defendants Town of Adair, Oklahoma; Tommy Frazier; Joe Ward; Fred Cannady; Jim Eastern and Gary Calvert, Sr. and against the plaintiff Lee Wright, on plaintiff's claim brought pursuant to 42 U.S.C. §1983.

IT IS SO ORDERED this 8<sup>th</sup> day of December, 1986.

  
H. DALE COOK

Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED  
DEC -8 1985

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

LEE WRIGHT,

Plaintiff,

vs.

No. 86-C-635-C ✓

TOWN OF ADAIR, OKLAHOMA;  
TOMMY FRAZIER; JOE WARD;  
FRED CANNADY; JIM EASTERN  
and GARY CALVERT, SR.,

Defendants.

O R D E R

Now before the Court for its consideration is the motion for summary judgment brought by the defendants Town of Adair, Oklahoma; Tommy Frazier, Mayor and the Town's Board of Trustees: Joe Ward, Fred Cannady, Jim Eastern, and Gary Calvert, Sr. Defendants assert that plaintiff does not state a cause of action under 42 U.S.C. §1983, and therefore they are entitled to judgment as a matter of law.

It is uncontroverted that plaintiff was hired as Chief of Police for Adair, Oklahoma on August 2, 1983. Plaintiff's employment was suspended without pay on May 14, 1985 at a special meeting of the Board of Trustees. On that date, the City Attorney advised the Board to provide plaintiff with ten (10) days to prepare his defense and that the Board should write a list of specific reasons for terminating plaintiff. On May 23, 1985, the

Board of Trustees held another meeting and, after a hearing, terminated plaintiff from his employment as Chief of Police.

In his complaint, plaintiff alleges that he was wrongfully terminated from his employment in violation of his due process rights under the United States Constitution giving rise to a cause of action under 42 U.S.C. §1983. Plaintiff alleges he had a protected property right in continued employment with the Town of Adair, Oklahoma because under Oklahoma law he could only be terminated for just cause or for the good of the service. In their motion for summary judgment defendants allege that plaintiff did not have a protected property right in continued employment and therefore has no cause of action under 42 U.S.C. §1983 for wrongful termination.

It is well settled that a prerequisite to establishing a denial of constitutionally protected procedural due process is a showing by plaintiff that he possessed a protected property interest in such employment. Board of Regents v. Roth, 408 U.S. 564 (1972). A property interest is defined as an actual entitlement to continued employment rather than a mere unilateral expectation of continuing in the position. Williams v. West Jordan City, 714 F.2d 1017, 1019-1020 (10th Cir. 1983). Actual entitlement can be shown by express provisions contained in a written employment contract, state statute or city ordinance. A provision which states that the employment cannot be terminated "except for good and sufficient cause" effectuates actual entitlement to continued employment. Bailey v. Kirk, 777 F.2d 567 (10th Cir. 1985).

The following language appeared on the employment application signed by plaintiff:

I authorize investigation of all statements contained in this application. I understand that misrepresentation or omission of facts called for is cause for dismissal. Further, I understand and agree that my employment is for no definite period and may, regardless of the date of payment of my wages and salary, be terminated at any time without any previous notice.

The Adair Town Code provides in Article 6, Section 1-29 the following:

There shall be a police department, the head of which shall be the town marshal. In accordance with Oklahoma Statutes, 1971, Title 11, Section 23(c), the board of trustees shall appoint the town marshal, and may remove him at pleasure.

Both of these provisions clearly establish the City's right to terminate plaintiff without a "just cause" determination.

In his responsive pleading to defendants' motion, plaintiff argues that his protected right to continued employment is established under Oklahoma statutory law. In particular plaintiff relies on two provisions.

11 O.S. §12-111. Chief of police--Creation and duties

The board of trustees may appoint a chief of police, who shall enforce municipal ordinances and have such other powers, duties and functions as may be prescribed by law or ordinance. the chief of police may appoint police officers as he deems necessary, subject to the approval and confirmation of the board of trustees. All references in Oklahoma Statutes to the town marshal shall mean the town Chief of police.

11 O.S. §12-114. Appointments and removals

Appointments and promotions in the service of a statutory town board of trustees

government shall be made solely on the basis of merit and fitness; and removals, demotions, suspensions, and layoffs shall be made solely for the good of the service. The board by ordinance may establish a merit system and provide for its organization and functioning, and provide for personnel administration and regulation of personnel matters. The board of trustees may remove for cause any appointive officer by a majority vote of all its members.

Plaintiff reads 11 O.S. §12-114 to provide that since he is "appointed" as chief of police under 11 O.S. §12-111 then he is an "appointive officer" under 11 O.S. §12-114 and his removal can only be effectuated "for cause". Plaintiff further argues the state legislature has restricted municipalities from enacting codes which are inconsistent with the laws of Oklahoma and therefore Oklahoma statutory law overrides any municipal ordinance which is shown to be inconsistent.

On determining whether a municipal ordinance creates a protected property interest, the courts must apply applicable state law. "Property interests are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as stated law." Williams v. West Jordan City, supra at 1019. Thus whether plaintiff had a protected property interest in continued employment depends on the provisions within the Adair Town Code, Oklahoma statutory law and how these provisions have been interpreted by the Oklahoma courts.

The statutes creating a municipal board of trustees form of government are found in 11 O.S. §12-101 et seq. In this statutory section, town officers are described and identified. 11 O.S.

§12-109 describes the town clerk as "an officer of the town". Likewise O.S. §12-110 describes the town treasurer as an "officer of the town". The position of chief of police is described in 11 O.S. §12-111, but the statutory language does not contain the statement that the chief of police is an officer of the town. Further 11 O.S. §12-106 provides:

Powers vested in board of trustees -- Designated powers

All powers of a statutory town board of trustees town, including the determination of matters of policy, shall be vested in the board of trustees. Without limitation of the foregoing, the board may:

1. Appoint and remove, and confirm appointments of, designated town officers and employees by law or ordinance.

Plaintiff is not designated as an "officer of the town" as specifically set forth in describing the town clerk and town treasurer. Therefore plaintiff was an appointed employee of the Town of Adair. Under 11 O.S. §12-111 plaintiff's "removal, demotions, suspensions, or layoffs shall be made solely for the good of the service". In Hall v. O'Keefe, 617 P.2d 196 (Okla. 1980), the Oklahoma Supreme Court held that "for the good of the service" is not the equivalent of removal "for just cause". Thus, the right of an employee to be terminated "solely for the good of the service" does not vest the employee with a constitutionally-protected property interest. Hall v. O'Keefe, supra.

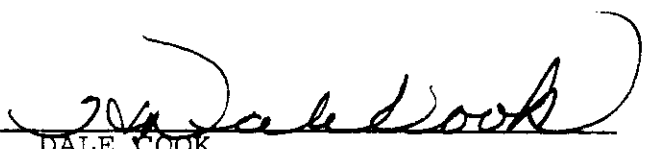
The Court finds from a review of 12 O.S. §12-101 et seq., that the Code for the Town of Adair is not inconsistent or contrary to Oklahoma statutory law. The Court further finds that the plaintiff, Lee Wright, did not have a protected property



right in continued employment under the municipal ordinance, Oklahoma statutes or applicable case law as set forth by the Oklahoma courts.

WHEREFORE, premises considered, it is the Order of the Court that the motion for summary judgment filed by the defendants Town of Adair, Oklahoma; Tommy Frazier; Joe Ward; Fred Cannady, Tom Eastern and Gary Calvert, Sr. over and against the plaintiff, Lee Wright, is hereby granted.

IT IS SO ORDERED this 8<sup>th</sup> day of December, 1986.

  
H. DALE COOK  
Chief Judge, U. S. District Court

Entered

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

DEC - 8 1986

JACK C. BRYAN, CLERK  
U.S. DISTRICT COURT

PIONEER SAVINGS & TRUST COMPANY, )

Plaintiff, )

vs. )

No. 86-C-311-C ✓

LES G. GODDARD, DAVID R.  
LAWSON, and WESTERN NATIONAL  
BANKING ASSOCIATION, )

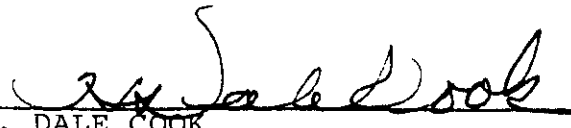
Defendants. )

J U D G M E N T

This action came before the Court on defendants' motion for summary judgment, the issues having been duly considered and a decision having been duly rendered,

IT IS SO ORDERED AND ADJUDGED that Judgment be entered in behalf of the defendants Les Goddard, David Lawson and Western National Bank on plaintiff's claim brought pursuant to the Securities Exchange Act of 1934, 15 U.S.C. §178(a) et seq.

IT IS SO ORDERED this 8th day of December, 1986.

  
H. DALE COOK  
Chief Judge, U. S. District Court

JAD/vlw

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA


SHARON L. CREEKMORE, )  
 )  
Plaintiff, )  
vs. )  
 )  
RANDY DUREN and DRUMRIGHT )  
MEMORIAL HOSPITAL FOUNDATION, )  
 )  
Defendants. ) No. 85-C-613-B ✓

DEC 27 1986  
am

ORDER

NOW on this 25th of March, 1986, the above captioned cause came on before the Court for jury trial. Both sides announcing ready, the plaintiff proceeded to present her evidence and at the close of the evidence, the defendant, Gary Henderson, moved for directed verdict in his favor and against the plaintiff which was granted by the Court and defendant dismissed as a party to the action.

Dated this 5 day of December, 1986.

  
\_\_\_\_\_  
HONORABLE THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE  
NORTHERN DISTRICT OF OKLAHOMA

*Entered*

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED  
DEC -8 1986

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

PIONEER SAVINGS & TRUST COMPANY,) )  
 ) )  
Plaintiff, ) )  
 ) )  
vs. ) )  
 ) )  
LES G. GODDARD, DAVID R. ) )  
LAWSON, and WESTERN NATIONAL ) )  
BANKING ASSOCIATION, ) )  
 ) )  
Defendants. ) )

No. 86-C-311-C ✓

O R D E R

Now before the Court for its consideration is the motion to dismiss filed by the defendants Les Goddard, David Lawson, and Western National Bank on August 15, 1986. This motion was converted to summary judgment by Order of this Court on October 21, 1986. All parties having responded, the issues are now ready for this Court's determination.

This case involves the sale of loan participations by Western National Bank (Western), to Pioneer Savings and Trust Co. (Pioneer). The plaintiff, Pioneer, alleges that Western made false statements of material fact, and omitted material facts during the negotiations for the sale of said loan participations. Plaintiff further alleges this conduct violated the Securities Exchange Act of 1934, 15 U.S.C. §78(a) et seq., and therefore seeks rescission of the loan participations in question.

The defendants respond, in their motion for summary judgment, that loan participations are not securities as defined in 15 U.S.C. §78c(a)(10). Therefore, it is argued, this Court lacks subject matter jurisdiction since the only independent basis for jurisdiction is found in the Federal Securities Law, giving rise to federal question jurisdiction, 28 U.S.C. §1331.

The issue of subject matter jurisdiction may be raised at any time by the suggestion of the parties, or by the Court sua sponte. See Rule 12(h)(3) F.R.Cv.P. Therefore, the plaintiff's assertion that the motion was untimely filed is without merit.

There is not complete diversity in this case as contemplated by 28 U.S.C. §1332, as the plaintiff, Pioneer, and the defendant, David Lawson, are both residents of Oklahoma. As a result, the only independent basis for subject matter jurisdiction of this Court is found in count one of the plaintiff's complaint -- violations of Federal Securities Laws. Thus, to consider whether jurisdiction is proper, the Court must determine whether the loan participations are securities as contemplated by the Securities Exchange Act.

The Supreme Court, in S.E.C. v. Howey, 328 U.S. 293 (1946), stated that in determining what constitutes a security, "[t]he test is whether the scheme involves an investment of money in a common enterprise with profits to come solely from the efforts of others." Id. at 301. Further, the Court required that four factors be present to constitute a security: (1) an investment (2) in a common venture (3) premised on reasonable expectation of profits (4) to be derived from the entrepreneurial or managerial

efforts of others. United Housing Foundation, Inc. v. Forman, 421 U.S. 837 (1975).

The Tenth Circuit has not addressed the issue of whether a loan participation meets the requirements of the Howey-Forman test. However, the Tenth Circuit has held that a court, in determining whether a security exists in a particular case, should look to the "economic reality" of the transaction involved. McGill v. American Land & Exploration Co., 776 F.2d 923, 925 (10th Cir. 1985). Further, the Court stated it should be determined whether "the transaction was purely commercial in nature or was in reality an investment." McGovern Plaza Joint Venture v. First of Denver, 562 F.2d 645, 647 (10th Cir. 1977) (citing Zabriskie v. Lewis, 507 F.2d 546 (10th Cir. 1974)).

Applying the Howey-Forman test and the directives of the Tenth Circuit to the facts of this case, the Court finds that the loan participations are "commercial in nature" and, as such, are not subject to securities regulations.

Specifically, Pioneer, under the loan participation agreements, was entitled to pro rata sharing of all payments on the underlying loan. Additionally, the collateral was to be held as security for the loan, and if liquidated, the proceeds would be divided on a pro rata basis. Further, any set-off would be applied pro rata to Pioneer. Moreover, the fact that the loan was collateralized, and the profit was a fixed interest rate, further evidences the finding that the loan participations were commercial transactions. See American Fletcher Mortgage Corp.,

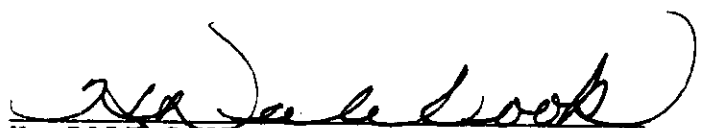
Inc. v. U.S. Steel Credit Corp., 635 F.2d 1247, 1354 (7th Cir. 1980).

Therefore, the Court finds that subject matter jurisdiction is lacking, as the Federal Securities Laws do not apply to the loan participations in question. The Court further finds that for the foregoing reasons, the pendent state claims must also be dismissed for lack of jurisdiction.

WHEREFORE, premises considered, it is the Order of the Court that the motion of defendants for summary judgment is hereby GRANTED.

It is Further Ordered that the pendent state claims are DISMISSED.

IT IS SO ORDERED this 8th day of December, 1986.

  
H. DALE COOK  
Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA


OKLAHOMA BLACK OFFICERS, INC., )  
et al., )  
 )  
Plaintiffs, )  
 )  
vs. ) No. 83-C-246-B ✓  
 )  
CITY OF TULSA, OKLAHOMA, et al., ) HON. THOMAS R. BRETT  
 )  
Defendants. )

---

FINAL JUDGMENT OF NO CAUSE OF ACTION  
AGAINST PLAINTIFF LARRY DARNELL SMITH AND  
IN FAVOR OF FRATERNAL ORDER OF POLICE  
AND ALL INDIVIDUALLY NAMED FOP DEFENDANTS

In accordance with the Order entered this date, it is  
HEREBY ORDERED AND ADJUDGED that final judgment is entered in  
favor of the Fraternal Order of Police and all individually named  
FOP Defendants and against Plaintiff Larry Darnell Smith, and all  
claims of Plaintiff Larry Darnell Smith in this action and con-  
tained in the Third Amended and Supplemental Complaint against  
the Fraternal Order of Police and all individually named FOP  
Defendants are hereby dismissed with prejudice. The parties are  
to pay their respective costs, including attorney's fees.

Dated this 7th day of December, 1986.

  
\_\_\_\_\_  
THOMAS R. BRETT  
U. S. DISTRICT JUDGE



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC 1986

OKLAHOMA BLACK OFFICERS, INC., )  
et al., )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
CITY OF TULSA, OKLAHOMA, et al., )  
 )  
Defendants. )

No. 83-C-246-B ✓

HON. THOMAS R. BRETT

ORDER OF DISMISSAL WITH PREJUDICE OF ALL CLAIMS  
OF PLAINTIFF AHMAD N. SHADEED AGAINST  
FRATERNAL ORDER OF POLICE AND ALL  
INDIVIDUALLY NAMED FOP DEFENDANTS

This matter having come before the Court upon the filing of the attached Stipulation, the Court being advised in the premises and good cause having been shown, now therefore:

IT IS HEREBY ORDERED AND ADJUDGED that all claims and causes of action of Plaintiff Ahmad N. Shadeed against the Defendant Fraternal Order of Police and all individually named FOP Defendants in the above-referenced action and contained in the Third Amended and Supplemental Complaint shall be and are hereby dismissed with prejudice;

IT IS FURTHER ORDERED AND ADJUDGED that no party shall be entitled to attorney's fees or costs as a result of this Order.

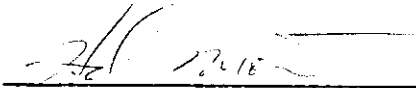


THOMAS R. BRETT  
U.S. DISTRICT COURT JUDGE

APPROVED AS TO FORM AND CONTENT:



Richard Quiggle  
Morris Thompson  
Attorneys for Plaintiffs



Donald M. Bingham  
Hal F. Morris  
Attorneys for Fraternal Order of  
Police and all Individually Named  
FOP Defendants

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

Frank's Aircraft Company, Inc. )

Plaintiff(s), )

vs. )

Carl Johnson, d/b/a Texas Aircraft )  
Sales )

Defendant(s). )

No. 86-C-103-E

O R D E R

Rule 36(a) of the Rules of the United States District Court for the Northern District of Oklahoma provides as follows:

(a) In any case in which no action has been taken by the parties for six (6) months, it shall be the duty of the Clerk to mail notice thereof to counsel of record or to the parties, if their post office addresses are known. If such notice has been given and no action has been taken in the case within thirty (30) days of the date of the notice, an order of dismissal may in the Court's discretion be entered.

In the action herein, notice pursuant to Rule 36(a) was mailed to counsel of record or to the parties, at their last address of record with the Court, on July 24, 1986. No action has been taken in the case within thirty (30) days of the date of the notice.

Therefore, it is the Order of the Court that this action is in all respects dismissed.

Dated this 3<sup>rd</sup> day of December, 1986.

  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

THE ESTATE OF JAMES LITTLETON  
DANIEL, JR.; JOHN D. MCCARTNEY  
and DAVID S. JAMES,

Plaintiffs,

vs.

BOWDEN ATHERTON, et al.,

Defendants.

No. 85-C-590-C

DEC 8 1986

JACK C. COOK  
U.S. DIST.

ORDER OF DISMISSAL WITH PREJUDICE

The court being fully advised in the premises and after consideration of the Joint Stipulation of Dismissal with Prejudice filed by the plaintiffs and the defendant, W. Michael Richards, and those parties' request for an order of dismissal with prejudice of all claims as against the defendant, W. Michael Richards only, finds that such order should be issued.

BE IT THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiffs' cause filed herein against the defendant, W. Michael Richards only, be and the same is hereby dismissed with prejudice.

Dated this 7 day of Dec, 1986.

JACK C. COOK

United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ARTHUR SULENSKI, SUSAN SULEN- )  
SKI, DANYEL SULENSKI and DAVID )  
SULENSKI, )

Plaintiffs, )

vs. )

HOWELL COUNTY, TRUMAN WILES in )  
his official capacity as )  
HOWELL COUNTY PROSECUTOR, )  
J. B. CANTRELL, d/b/a CANTRELL )  
HOME FURNISHINGS, and )  
CHARLES C. CANTRELL, )

Defendants. )

**F I L E D**

DEC 2 1986

Jack C. Cantrell  
U.S. DISTRICT COURT

CASE NO. 85-C 826-C

O R D E R

The Court having been advised that the plaintiffs' action against the defendant, J. B. Cantrell, d/b/a Cantrell Home Furnishings, having been settled between the parties, finds that the action against J. B. Cantrell, d/b/a Cantrell Home Furnishings, should be dismissed.

IT IS, THEREFORE, ORDERED that the plaintiffs' action against the defendant, J. B. Cantrell, d/b/a Cantrell Home Furnishings, is dismissed without prejudice. The Court

retains jurisdiction of the action of the plaintiffs against the defendants, Howell County, ~~Howell County Prosecutor~~ and Charles C. Cantrell.

DATED this 7 day of <sup>Dec</sup>~~November~~, 1986.

s/H. DALE COOK  

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UNITED STATES DISTRICT JUDGE

Entered

JCD/KB

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,

Plaintiff,

vs.

JAMES THOMAS; EDDIE MERRILL;  
and JEFFERY ROEDER,

Defendants.

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)


No. 86-C-508 B

NUNC PRO TUNC ORDER

Now on this 8<sup>th</sup> day of December, 1986, the  
Court, having reviewed the Journal Entry of Judgment entered  
and filed, in this cause, on November 19, 1986, finds that  
due to a scrivener's error default judgment was ordered against  
Jeffery Roeder, in addition to defendants James Thomas and  
Eddie Merrill.

The Journal Entry of Judgment, filed November 19,  
1986, is hereby corrected, nunc pro tunc, to exclude defendant  
Jeffery Roeder from the order granting the plaintiff, State  
Farm Mutual Automobile Insurance Company, judgment by default  
against defendants James Thomas and Eddie Merrill. With this  
correction, the Court's previous order and judgment of November 19,  
1986, remains in full force and effect.

IT IS SO ORDERED.

  
THOMAS R. BRETT  
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

INVIVO RESEARCH LABORATORIES, )  
INC., an Oklahoma corporation, )

Plaintiff, )

v. )

Case No. 86-C-832-C

DN BIOMEDICAL EXPORTS AG, a )  
Swiss corporation, et al., )  
DAVID B. NAYLOR; and )  
MICHAEL W. MOONEY, )

Defendants. )

**FILED**

DEC 6 1986

Jack C. Cook  
U.S. DISTRICT JUDGE

ORDER OF DISMISSAL

NOW on this 7 day of Dec, 1986, the Court has for its consideration the Stipulation for Dismissal jointly filed in the above-styled and numbered cause by plaintiff and defendants. Based upon the representations and requests of the parties, as set forth in the foregoing stipulation, it is

ORDERED that plaintiff's Complaint and the claims for relief against the defendants, DN Biomedical Exports AG, David E. Naylor and Michael W. Mooney, be and the same are hereby dismissed with prejudice.

The parties hereto shall each bear their own respective costs and attorneys fees.

H. DALE COOK  
H. DALE COOK  
UNITED STATES DISTRICT JUDGE  
FOR THE NORTHERN DISTRICT OF  
OKLAHOMA



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC 2 1986  
FILED  
DEC 2 1986  
AG 11  
1131

OKLAHOMA BLACK OFFICERS, INC., )  
et al., )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
CITY OF TULSA, OKLAHOMA, et al., )  
 )  
Defendants. )

No. 83-C-246-B ✓  
HON. THOMAS R. BRETT

ORDER OF DISMISSAL WITH PREJUDICE OF ALL CLAIMS  
OF PLAINTIFF OKLAHOMA BLACK OFFICERS, INC. AGAINST  
FRATERNAL ORDER OF POLICE AND ALL  
INDIVIDUALLY NAMED FOP DEFENDANTS


This matter having come before the Court upon the filing of the attached Stipulation, the Court being advised in the premises and good cause having been shown, now therefore:


IT IS HEREBY ORDERED AND ADJUDGED that all claims and causes of action of Plaintiff Oklahoma Black Officers, Inc. against the Defendant Fraternal Order of Police and all individually named FOP Defendants in the above-referenced action and contained in the Third Amended and Supplemental Complaint shall be and are hereby dismissed with prejudice;

IT IS FURTHER ORDERED AND ADJUDGED that no party shall be entitled to attorney's fees or costs as a result of this Order.

  
THOMAS R. BRETT  
U.S. DISTRICT COURT JUDGE

APPROVED AS TO FORM AND CONTENT:

  
Richard Quiggle  
Morris Thompson  
Attorneys for Plaintiffs

  
Donald M. Bingham  
Hal F. Morris  
Attorneys for Fraternal Order of  
Police and all Individually Named  
FOP Defendants

FILED

DEC 8 1986

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

OKLAHOMA BLACK OFFICERS, INC., )  
et al., )  
 )  
Plaintiffs, )  
 )  
vs. )  
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CITY OF TULSA, OKLAHOMA, et al., )  
 )  
Defendants. )

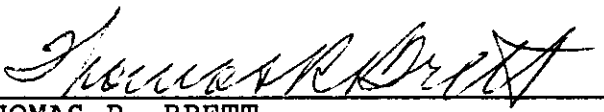
No. 83-C-246-B ✓  
HON. THOMAS R. BRETT

ORDER OF DISMISSAL WITH PREJUDICE OF ALL CLAIMS  
OF PLAINTIFF MARY ETTA JOHNSON AGAINST  
FRATERNAL ORDER OF POLICE AND ALL  
INDIVIDUALLY NAMED FOP DEFENDANTS

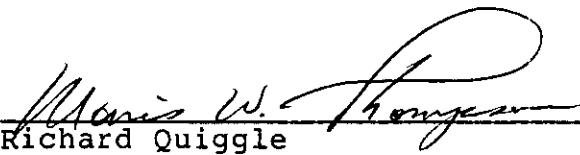
This matter having come before the Court upon the filing of the attached Stipulation, the Court being advised in the premises and good cause having been shown, now therefore:


IT IS HEREBY ORDERED AND ADJUDGED that all claims and causes of action of Plaintiff Mary Etta Johnson against the Defendant Fraternal Order of Police and all individually named FOP Defendants in the above-referenced action and contained in the Third Amended and Supplemental Complaint shall be and are hereby dismissed with prejudice;

IT IS FURTHER ORDERED AND ADJUDGED that no party shall be entitled to attorney's fees or costs as a result of this Order.

  
\_\_\_\_\_  
THOMAS R. BRETT  
U.S. DISTRICT COURT JUDGE

APPROVED AS TO FORM AND CONTENT:

  
\_\_\_\_\_  
Richard Quiggle  
Morris Thompson  
Attorneys for Plaintiffs

 / by direction to jc / deputy clt  
\_\_\_\_\_  
Donald M. Bingham  
Hal F. Morris  
Attorneys for Fraternal Order of  
Police and all Individually Named  
FOP Defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED  
DEC 2 1986 AM


OKLAHOMA BLACK OFFICERS, INC., )  
et al., )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
CITY OF TULSA, OKLAHOMA, et al., )  
 )  
Defendants. )

No. 83-C-246-B ✓  
HON. THOMAS R. BRETT

FINAL JUDGMENT OF NO CAUSE OF ACTION  
AGAINST PLAINTIFF MARY ETTA JOHNSON AND  
IN FAVOR OF FRATERNAL ORDER OF POLICE  
AND ALL INDIVIDUALLY NAMED FOP DEFENDANTS

In accordance with the Order entered this date, it is  
HEREBY ORDERED AND ADJUDGED that final judgment is entered in  
favor of the Fraternal Order of Police and all individually named  
FOP Defendants and against Plaintiff Mary Etta Johnson, and all  
claims of Plaintiff Mary Etta Johnson in this action and con-  
tained in the Third Amended and Supplemental Complaint against  
the Fraternal Order of Police and all individually named FOP  
Defendants are hereby dismissed with prejudice. The parties are  
to pay their respective costs, including attorney's fees.

Dated this 8 day of December, 1986.

  
\_\_\_\_\_  
THOMAS R. BRETT  
U. S. DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

UNITED STATES OF AMERICA, )

Plaintiff, )

vs. )

LONNIE D. GREENWOOD, )

Defendant. )

DEC 8 1986

Jack C. Smith  
U.S. DISTRICT

CIVIL ACTION NO. 86-C-585-C

DEFAULT JUDGMENT

This matter comes on for consideration this 7 day of ~~November~~ <sup>Dec</sup>, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Lonnie D. Greenwood, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Lonnie D. Greenwood, was served with Summons and Complaint on August 6, 1986. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant,

Lonnie D. Greenwood, for the principal sum of \$1,129.32 as of September 28, 1984, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.68 per month from January 1, 1984, and \$.67 per month from February 1, 1985, until judgment, plus interest thereafter at the current legal rate of 5.77 percent per annum until paid, plus costs of this action.

  
UNITED STATES DISTRICT JUDGE

FILED

DEC 8 1986

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

SYLVIA DELMORAL,

Plaintiff,

v.

OTIS R. BOWEN, M.D., Secretary  
of Health and Human Services,

Defendant.

No. 86-C-362-C

ORDER

The Court has for consideration the Findings and Recommendations of the Magistrate filed November 17, 1986, in which the Magistrate recommended that the decision of the Secretary be reversed in part and affirmed in part. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the Court has concluded that the Findings and Recommendations of the Magistrate should be and hereby are affirmed and adopted by the Court.

It is therefore Ordered that the decision of the Secretary is reversed to the extent that repayment of benefits from December, 1983, through September, 1984, be required.

It is further Ordered that the Secretary's ruling that repayment is required for the months of October and November, 1984, is affirmed.

Dated this 7 day of Dec, 1986.

  
H. DALE COOK, CHIEF  
UNITED STATES DISTRICT JUDGE



UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 8 1986

Jack C. ...  
U.S. DISTRICT

UNITED STATES OF AMERICA,

Plaintiff,

VS.

DANNY W. CARNES,

Defendant.

CIVIL ACTION NO. 86-C-274-C

## ORDER OF DISMISSAL

Now on this 17 day of December, it appears that the Defendant in the captioned case has not been located within the Northern District of Oklahoma, and therefore attempts to serve him have been unsuccessful.

IT IS THEREFORE ORDERED that the Complaint against Defendant, Danny W. Carnes, be and is dismissed without prejudice.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

UNITED STATES OF AMERICA,

Plaintiff,

VS .

J. BINX WILKINSON,

Defendant .

DEC 1986

Jack C. ...  
U.S. DISTRICT

CIVIL ACTION NO. 86-C-226-C

## ORDER OF DISMISSAL

Now on this 7 day of December, it appears that the Defendant in the captioned case has not been located within the Northern District of Oklahoma, and therefore attempts to serve him have been unsuccessful.

IT IS THEREFORE ORDERED that the Complaint against Defendant, J. Binx Wilkinson, be and is dismissed without prejudice.

3/11, 1942 COOK

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DALE W. REED,

Defendant.

DEC 8 1986

JACK C. ...  
U.S. DISTRICT

CIVIL ACTION NO. 86-C-224-C

DEFAULT JUDGMENT

This matter comes on for consideration this 8 day of December, 1986, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Phil Pinnell, Assistant United States Attorney, and the Defendant, Dale W. Reed, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Dale W. Reed, acknowledged receipt of Summons and Complaint. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant,

Dale W. Reed, for the principal sum of \$422.10 less credits or cash payment of \$70.00, reducing the net amount of debt to \$369.45, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from August 10, 1983, and \$.68 per month from January 1, 1984, until judgment, plus interest thereafter at the current legal rate of 5.77 percent per annum until paid, plus costs of this action.

s/H. DALE COOK

---

UNITED STATES DISTRICT JUDGE

**FILED**

Plaintiff,

No. 85-C-1052-C

DEC 8 1986

Jack C. ...  
U.S. DISTRICT

Defendant.

NOW, on this 7 day of Dec, 1986, the Court being advised that a compromise settlement has been reached between the Plaintiff and the Defendant, Warren Petroleum Company, the Court, **HEREBY ORDERS,** **ADJUDGES AND DECREES** that the captioned case be dismissed with prejudice.

2. *Phragmites* (common)

UNITED STATES DISTRICT JUDGE

**UNGERMAN  
CONNER &  
LITTLE**

P. O. BOX 2099  
TULSA, OKLAHOMA  
74101

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC 8 1986

Jack C. Cook  
U.S. DISTRICT JUDGE

FRED CRENSHAW,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 83-C-755-C
	)	
QUARLES DRILLING CORPORATION,	)	
	)	
Defendant.	)	

ORDER

On presentation of a Stipulation for Dismissal  
filed in the within proceeding;

IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. Plaintiffs' Complaint, including all claims  
therein, shall be and is hereby dismissed with prejudice.

2. Each party shall bear their or its own costs  
in this matter.

3. The bond heretofore required of Defendant is  
released and dissolved.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

100

)
)
)
)
)
)
)
)
)


No. 86-C-851-E

DEC 8 1966

### JUDGMENT

IT IS ORDERED AND ADJUDGED that the Plaintiff, Clifford A. Still, take nothing from the Defendants Frank Thurman, Dr. William Barnes and Dr. Denny Kraut, that the action be dismissed on the merits, and that the Defendants, Frank Thurman, Dr. William Barnes and Dr. Denny Kraut, recover of the Plaintiff, Clifford A. Still, their costs of action.

DATED this 5<sup>TH</sup> day of December, 1986.

  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

DEC 21 1961

No. 85-C-939-E

DATED at Tulsa, Oklahoma this 5<sup>th</sup> day of December, 1986.

JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE



No. 85-C-861-E

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC 8 1986

MANCLE J. CARRIER,  
Plaintiff,

vs.

MARGARET M. HECKLER, Secretary  
of Health and Human Services,  
Defendant.

No. 85-C-300-E

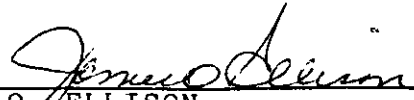
O R D E R

The Court has before it for its consideration the Plaintiff's Objections to the Findings and Recommendations of the Magistrate filed February 6, 1986 in which the Magistrate recommended that the decision of the Secretary be affirmed.

After careful review of the record and the issues, the Court has determined that the Magistrate's Recommendation should not be followed. Without the testimony of a vocational expert, there is insufficient evidence in the record regarding the Plaintiff's ability to perform substantial gainful activity. Channel v. Heckler, 747 F.2d 577 (10th Cir. 1984).

Accordingly, this matter is remanded for further proceedings in which expert vocational testimony can be considered with regard to Plaintiff's nonexertional impairments.

DATED this 5<sup>th</sup> day of December, 1986.

  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC 8 1986

RICHARD E. SMITH d/b/a  
RICHARD E. SMITH OIL PROPERTIES,

Plaintiff,

v.

ROBERT L. HILL and  
HILCO ENERGY COMPANY,

Defendants.

Jack C. Smith  
U.S. DISTRICT COURT

Case No. 86-C-87-C

STIPULATED ORDER OF DISMISSAL

COMES NOW the plaintiff, Richard E. Smith d/b/a Richard E. Smith Oil Properties, and, subject to the order of this Court, dismisses all claims presented by its complaint herein with prejudice, all parties to bear their own costs and attorneys' fees.

DATED this 26 day of November, 1986.

*Gene C. Buzzard*  
*by Paul R. Hogue*  
Gene C. Buzzard, OBA #1396

WADDEL & BUZZARD  
1500 One Boston Plaza  
20 East 5th Street  
Tulsa, Oklahoma 74103

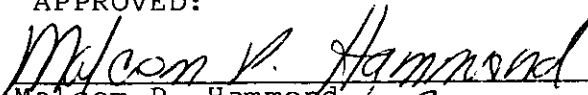
ATTORNEY FOR PLAINTIFF  
RICHARD E. SMITH

SO ORDERED:

*W. J. L. Look*  
United States District Judge

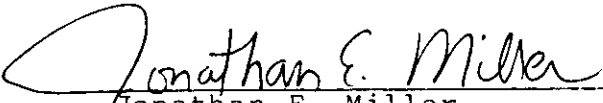
Dated Dec 7, 1986

APPROVED:

  
Malcom P. Hammond *by JM*

2211 E. Skelly Drive  
Tulsa, Oklahoma 74105

ATTORNEY FOR DEFENDANT  
ROBERT HILL

  
Jonathan E. Miller

Tenth Floor  
Two Leadership Square  
Oklahoma City, Oklahoma 73102

ATTORNEY FOR DEFENDANT  
HILCO ENERGY COMPANY

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

CENTURY BANK, a banking  
corporation of Tulsa County,  
Oklahoma,

Plaintiff,

vs.

WILLIAM D. MCKENZIE,

Defendant and  
Third-Party  
Plaintiff,

vs.

CLYDE J. DUNAVENT, JR.,  
DAN G. MAILATH, DENNIS L.  
WOOD, LARRY T. JOHNSON,  
WOODLAND POINTE, CENTURY  
TOWER PARTNERSHIP, WOODLAND  
POINTE NORTH PARTNERSHIP  
and WOODLAND POINTE WEST  
PARTNERSHIP,

Third-Party  
Defendants.

DEC 8 1986

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

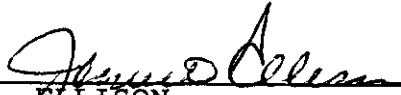
No. 85-C-66-E

JOURNAL ENTRY

Pursuant to the Order of this Court, dated May 29, 1986, sustaining inter alia Plaintiff Century Bank's Motion for Summary Judgment on its Promissory Note claim against Defendant William D. McKenzie, judgment is hereby entered in favor of Century Bank and against McKenzie in the amount of \$112,828.14, which sum includes principal and accrued interest to May 30, 1986, <sup>at</sup> ~~prejudgment interest thereafter~~ at the rate of 49.44 <sup>per diem</sup> together with <sup>5.77%</sup> ~~post-judgment interest at the contractual rate of 22-25%~~ per annum until judgment <sup>of</sup> from the date hereof until paid.

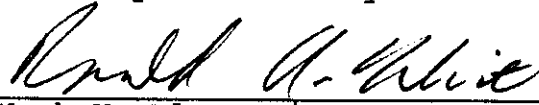
Pursuant to stipulation of the parties and under authority of 12 O.S. § 936, Century Bank is hereby awarded attorney fees in the amount of \$12,000.00.

DATED this 5<sup>th</sup> day of December, 1986.

  
\_\_\_\_\_  
JAMES O. ELLISON  
United States District Judge

APPROVED:

  
\_\_\_\_\_  
Ronald S. Grant  
Attorney for Century Bank

  
\_\_\_\_\_  
Mark K. Blongewicz  
Ronald White  
Attorneys for William D. McKenzie

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC -5 1985

JACK S. SILVER, CLERK  
U.S. DISTRICT COURT

SHELTER INSURANCE COMPANIES,  
a foreign corporation,

Plaintiff,

vs.

LARRY and JUDY LEECE, et al,

Defendants.

1014  
No. 85-C-1040-E

STIPULATION OF DISMISSAL OF  
COMPLAINT, CROSS COMPLAINT, AND COUNTERCLAIM

Comes now the plaintiff, Shelter Insurance Companies, and hereby dismisses its Complaint against the defendants, Larry and Judy Leece a/k/a Jim and Judy Leece, Jamie Greenhaw, a minor, and Cletus Hale and Leona Hale, survivors and parents of John Wesley Hale, deceased minor child. Additionally, the defendants, Hale, hereby dismiss any cross claims or counterclaims they have against the plaintiff or any other defendant to this action. These mutual dismissals are stipulated to by all attorneys of record, pursuant to Rule 41 (a) of the Federal Rules of Civil Procedure, as is evidenced by the signatures of all counsel of record.

Respectfully submitted,

SECRET & HILL

By:

*James K. Secrest, II* #10631  
JAMES K. SECREST, II, OBA #8049  
1515 East 71st, Suite 200  
American Federal Building  
Tulsa, Oklahoma 74136  
Telephone: (918) 494-5905  
Attorney for Plaintiff

52/

Dismissal Approved and Stipulated to:



RICHARD D. GIBBON, OBA #3340  
1611 South Harvard  
Tulsa, Oklahoma 74112  
Telephone: (918) 745-0687

Attorney for Defendants,  
Cletus and Leona Hale



PAUL T. BOUDREAUX, OBA #990  
507 South Main, Suite 300  
Tulsa, Oklahoma 74103  
Telephone: (918) 582-8877

Attorney for Defendants,  
Larry and Judy Leece



FILED

IN THE UNITED STATES DISTRICT COURT FOR THE

DEC 1986

NORTHERN DISTRICT OF OKLAHOMA

J. L. C.  
U.S. DIST. CT.

MARY MARGARET "PEGGY" DOWNEY )

Plaintiff, )

vs. )

No. 86-C-350-C

STATE OF OKLAHOMA, ex rel. )

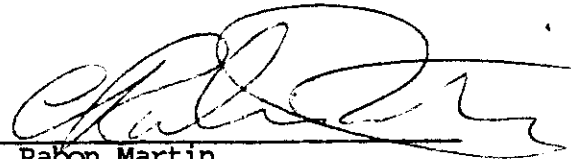
DEPARTMENT OF HUMAN SERVICES, )

Defendant. )


DISMISSAL WITH PREJUDICE

Come now the parties hereto and pursuant to Rule 41(a) (1) jointly stipulate to the dismissal with prejudice of the captioned action for the reason that the parties have entered into a settlement of all claims herein.

Dated this 3<sup>rd</sup> day of DEC, 1986.

  
C. Rabon Martin  
Martin, Turner & Zeigler  
1023 W. 23rd St.  
Tulsa, OK 74107-2819

Attorney for Plaintiff

  
David Brown  
Richard Freeman  
Assistant General Counsel  
P. O. Box 53025  
Oklahoma City, OK 73152

Attorneys for Defendant

nm  
UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED  
DEC -5 1986

PROFESSIONAL INVESTORS LIFE  
INSURANCE COMPANY,

Plaintiff,

vs.

L. GEORGE REYNOLDS, an Individual,  
REYNOLDS & ASSOCIATES MARKETING  
COMPANY, a General Partnership,  
JERRY SMALL, an Individual, DAN  
COWAN, an Individual, and CHARLES  
YARBROUGH, an Individual,

Defendants.

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

✓  
No. 84-C-946-C

DISMISSAL BY REYNOLDS AND RAMCO OF COUNTERCLAIM

COMES NOW defendants Reynolds and RAMCO, and hereby  
dismisses with prejudice their Counterclaim against plaintiff.

FRAZER AND COOK

BY: 

Attorneys for Defendants  
Reynolds & RAMCO


CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the foregoing Dismissal was mailed this 25 day of November, 1986 to:

Paul W. Tipton  
204 Concorde on the Creek  
6750 Hillcrest Plaza Drive  
Dallas, Texas 75230

Jerry Small  
1001 W. Park #147  
Plano, Texas 75075

Kevin W. Boyd  
P. O. Box 2333  
Tulsa, OK 74101

  
L. Stewart Fraser

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ROBERE KAZADI,

Plaintiff,

vs.

No. 86-C-703-E

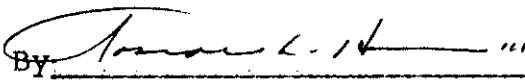
CIRCLE-K CONVENIENCE STORES,  
INC., a Texas Corporation  
domesticated in Oklahoma;  
CARRIE HARRIS; CITY OF TULSA,  
a Municipal Corporation;  
OFFICER GERALD BRYAN; and  
OFFICER WALT MILNER,

Defendants.


STIPULATION OF DISMISSAL

COMES NOW the Plaintiff and the Defendants City of Tulsa, a Municipal Corporation, Officer Gerald Bryan and Officer Walt Milner, and pursuant to FRCP 41(a)(1)(ii) agree and stipulate to a Dismissal With Prejudice of all causes of action claimed herein, as between the parties named in this Stipulation.

JOSEPH L. HULL,  
A Professional Corporation

By:   
Joseph L. Hull, III  
Attorney for Plaintiff

OFFICE OF CITY ATTORNEY

By:   
David L. Pauling  
Assistant City Attorney  
Attorney for Defendants  
City of Tulsa and Officers  
Gerald Bryan and Walt Milner

FILED  
JUL -4 1986

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

CHEMTECH INTERNATIONAL )  
CHEMICALS, INC., )  
 )  
Plaintiff, )  
 )  
BARBARA ZENTHOEFER AND EDWIN )  
ZENTHOEFER, )  
 )  
Additional Parties Plaintiff, )  
 )  
vs. )  
 )  
EQUINE CHEMICAL COMPANY, INC., )  
 )  
Defendant, )  
 )  
KEITH ORIN CARTER, )  
 )  
Additional Party Defendant. )

No. 85-C-228 E

JOINT STIPULATION OF DISMISSAL

COME NOW Plaintiff Chemtech International Chemicals, Inc., Additional Parties Plaintiff, Barbara Zenthoefer and Edwin Zenthoefer, Defendant Equine Chemical Company, Inc., and Additional Party Defendant, Keith Orin Carter and dismiss this action pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

SNEED, LANG, ADAMS,  
HAMILTON, DOWNIE & BARNETT

By



James C. Lang  
Kevin C. Leitch  
Sixth Floor  
114 East Eighth Street  
Tulsa, Oklahoma 74119  
(918) 583-3145

Attorneys for Plaintiffs

DORMAN & KACHIGIAN

By Mark G. Kachigian  
William S. Dorman  
Mark G. Kachigian  
1146 East 64th Street  
Tulsa, Oklahoma 74136  
(918) 747-1080

Attorneys for Defendants

CERTIFICATE OF MAILING

I, KEVIN C LEITCH, do hereby certify that on the 4 day of DECEMBER, 1986, caused to be mailed a true and correct copy of the above and foregoing instrument, proper postage thereon prepaid, to William S. Dorman, Esq., 1146 East 64th Street, Tulsa, Oklahoma 74136 and Johnson and Brooks, 2535 East 21st Street, Tulsa, Oklahoma 74114.

Kevin C. Leitch

**F I L E D**

Plaintiff,

**VS.**

No. 86-C-650-E

DEC 4 1986

BRYAN M. PATZKOWSKI, an individual, and SOONER CUTLERY, INC., an Oklahoma corporation,

Defendants.

Jack C. Strydom, Clerk  
U.S. DISTRICT COURT


NOW ON THIS 4 day of Dec, 1986, the Court has for its consideration the Stipulation for Dismissal jointly filed in the above-styled and numbered cause by plaintiff and defendants. Based upon the representations and requests of the parties, as set forth in the foregoing Stipulation, it is

ORDERED that plaintiff's Complaint and claims for relief against defendants be and the same are hereby dismissed without prejudice. It is further

ORDERED that each party shall bear its own costs.

*James O. Ellison*  
JAMES O. ELLISON,  
UNITED STATES DISTRICT JUDGE FOR  
THE NORTHERN DISTRICT OF OKLAHOMA

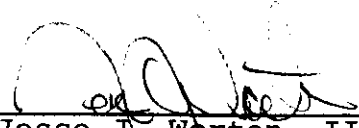
APPROVED:



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Joel L. Wohlgemuth  
NORMAN, WOHLGEMUTH & THOMPSON  
909 Kennedy Building  
Tulsa, OK 74103  
(918) 583-7571

Attorneys for Plaintiff,  
Cutlery World Corporation



---

Jesse J. Worton, III  
BREWER, WORTEN, ROBINETT, JOHNSON,  
WORTEN & KING  
P.O. Box 1066  
Bartlesville, OK 74005  
(918) 336-4132

Attorneys for Defendants,  
Bryan M. Patzkowski and  
Sooner Cutlery, Inc.



IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

GREGORY VANN HILL, )  
 )  
 Petitioner, )  
 )  
 v. ) 85-C-958-E  
 )  
 JACK C. COWLEY, et al, )  
 )  
 Respondents. )

DEC -4 1985  
JACK D. SILVER, CLERK  
U.S. DISTRICT COURT

ORDER

Petitioner Gregory Vann Hill's Application for a Writ of Habeas Corpus pursuant to Title 28 U.S.C. §2254 is now before the Magistrate for determination. Following a jury trial petitioner was convicted of Manslaughter in the First Degree in Tulsa County District Court, Case No. CRF-79-776, and was sentenced to forty-five (45) years' imprisonment. On December 17, 1981, petitioner's direct appeal was denied by the Court of Criminal Appeals, Case No. F-80-219. The direct appeal of this conviction was based on three alleged trial errors: (1) the delegation by the trial court to the baliff for the reading of the instructions; (2) the introduction of evidence characterized on appeal as hearsay; and, (3) an inappropriate verdict in light of the defense.

Petitioner states that he filed an application for post-conviction relief with the District Court of Tulsa County, asserting ineffective assistance of counsel at both the trial and appellate stages. This application was purportedly denied on June 8, 1982. Petitioner further states that this denial was appealed to the Oklahoma Court of Criminal Appeals in 1982. There

is, however, no record of such appeal in the records of the criminal appellate court.

In the application now before the court, petitioner raises two grounds upon which he seeks federal habeas relief. As his first ground, petitioner contends that he was denied effective assistance of counsel at both the trial and appellate stages. Secondly, petitioner asserts that the jury was uncomfortable during deliberations due to the "heat and humidity".

Title 22 O.S. 1981 §1086 provides:

All grounds for relief available to an applicant under this act must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the prior application. (Emphasis added.)

In construing this statute the Oklahoma Court of Criminal Appeals has concluded that where a defendant fails to assert on direct appeal issues which he subsequently raises on application for post-conviction relief, the court will not consider his post-conviction relief application unless the defendant shows sufficient reason why the issue was not raised on direct appeal or why it was inadequately raised in any prior attack on the conviction or sentence. Ellington v. Crisp, 547 P.2d 391, 393 (Okla.Crim. 1976).

The question now before this court is whether petitioner's procedural default in both failing to raise the issues of

ineffectiveness of counsel and jury discomfort on direct appeal, and failing to appeal the district court's denial of post-conviction relief should bar federal habeas review. In several recent cases the Supreme Court has considered the proper scope of habeas review following a state procedural default.

In Fay v. Noia, 732 U.S. 391, 83 S.Ct. 822, 9 L.Ed.2d 837 (1963), the Supreme Court held that federal courts have the power under 28 U.S.C. §2254 to grant habeas relief despite an applicant's failure to have pursued a state remedy no longer available to him. However, a federal district judge in considering a habeas petition may, in his discretion, deny relief if the applicant has deliberately bypassed the state court procedure and by so doing has forfeited his state court remedies.

The question as to whether a habeas petitioner has deliberately bypassed state procedure is governed by the Johnson v. Zerbst standard, has there been "an intentional relinquishment of a known right or privilege"? 304 U.S. 458, 464, 58 S.Ct. 1019, 1023, 82 L.Ed. 1461 (1938). Under this standard the Court concluded that Noia's failure to appeal from his conviction of felony murder was not knowing and intentional because "[f]or Noia to have appealed ... would have been to run a substantial risk of electrocution." 372 U.S. at 439-440. Noia's only choices were to be content with a sentence of life imprisonment or to take an appeal, which if successful, could have resulted in retrial and a death sentence.

Several years later in Wainwright v. Sykes, 433 U.S. 72, 97 S.Ct. 2497, 53 L.Ed.2d 594 (1977), the Court held that the Fay

"deliberate by-pass" standard no longer applies with respect to a procedural default which occurs during the course of a state criminal trial. Instead, the Court adopted the "cause and prejudice" test originally developed in Davis v. United States, 411 U.S. 233, 93 S.Ct. 1577, 36 L.Ed.2d 216 (1973), and Francis v. Henderson, 425 U.S. 536, 96 S.Ct. 1708, 48 L.Ed.2d 149 (1976). This standard requires that before a federal habeas petitioner may "obtain collateral relief based on trial errors to which no contemporaneous objection was made, a convicted defendant must show both (1) 'cause' excusing his ... procedural default and (2) 'actual prejudice' resulting from the errors of which he complains." United States v. Frady, 456 U.S. 152, 167-168, 102 S.Ct. 1584, 1594, 71 L.Ed.2d 816, 830 (1982).

Wainwright v. Sykes involved an application for federal habeas relief based upon Sykes' claim that the trial court erroneously admitted his confession at trial. The state courts refused to consider the merits of his claim because of non-compliance with the Florida contemporaneous objection rule.

Neither Fay v. Noia, supra, nor Wainwright v. Sykes, supra, considered a situation in which a state appeal was taken but an issue later raised in federal habeas petition was not asserted in the direct appeal. The Tenth Circuit considered such a case, and held that the deliberate bypass test applies to defaults involving issues not raised on direct appeal. In so holding the court stated:

We recognize that Rose v. Lundy, Engle v. Isaac, and United States v. Frady, 456 U.S. 152, 102 S.Ct. 1584, 71 L.Ed.2d 816 (1982), have severely narrowed

the issues cognizable in federal habeas corpus proceedings. Perhaps denying relief when an issue has not been raised in a direct appeal is a logical extension of the holdings of those cases. But absent explicit direction from the Supreme Court we are unwilling to so hold. In our view, Fay v. Noia is still the law and enunciates a broad enough rule to permit federal habeas consideration of issues not raised in a direct state appeal.

Holcomb v. Murphy, 701 F.2d 1307, 1311 (1983).

In Reed v. Ross, 468 U.S. 1, 104 S.Ct. 2901, 82 L.Ed.2d 1 (1984), the Supreme Court again considered the issue of procedural default and gave the Tenth Circuit the explicit direction sought in Holcomb v. Murphy. The facts in Reed involved a procedural default by failing to raise an issue on direct appeal. The Court held that the availability of federal habeas relief following such a default is governed by the Sykes "cause and prejudice" test. Reed v. Ross explicitly overruled Holcomb v. Murphy to the extent that Holcomb holds that the "cause and prejudice" default test does not apply to a petitioner's failure to raise an issue on direct appeal.

In considering the "cause" element of Sykes, the Supreme Court explained:

Underlying the concept of cause, however, is at least the dual notion that, absent exceptional circumstances, a defendant is bound by the tactical decisions of competent counsel, and that defense counsel may not flout state procedures and then turn around and seek refuge in federal court from the consequences of such conduct. A defense attorney, therefore, may not ignore a State's procedural rules in the expectation that his client's constitutional claims can be raised at a later date in federal court. Similarly, he may not use the prospect of federal habeas corpus relief as a hedge against the strategic risks he takes in his client's defense in state court. In general, therefore, defense counsel may not make a tactical

decision to forgo a procedural opportunity--for instance, an opportunity to object at trial or to raise an issue on appeal--and then, when he discovers that the tactic has been unsuccessful, pursue an alternative strategy in federal court. (Emphasis added.)

468 U.S. at 13, 14.

None of the claims in Hill's federal habeas application was raised on direct appeal. Petitioner has shown no justification for failure to raise the issues of ineffectiveness of trial counsel and "jury discomfort" on direct appeal. No "cause" or "prejudice" having been shown for his failure to raise these issues, the Magistrate finds that under Reed v. Ross petitioner is precluded from obtaining federal relief on these grounds.

As for his claim of ineffective assistance of appellate counsel, it appears that this claim was never brought before the Oklahoma Court of Criminal Appeals. Applications for post-conviction relief are filed in the underlying criminal case. There is no such application in the file of CRF 79-776. Additionally, there is no record in the Court of Criminal Appeals index for 1982 of any post-conviction appeal by petitioner. While petitioner was clearly aware of the post-conviction review available after direct appeal, no reason is offered for petitioner's failure to present this issue by way of the Oklahoma Post-conviction Relief Act. The Magistrate therefore concludes that federal review of this claim would not be appropriate.

Based upon the above, it is Ordered that petitioner Gregory Vann Hill's application for a writ of habeas corpus pursuant to 28 U.S.C. §2254 is hereby dismissed.

Dated this 4<sup>th</sup> day of December, 1986.



JOHN LEO WAGNER  
UNITED STATES MAGISTRATE

**FILED**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

DEC 4 1986

GERALD WHITFIELD, and FARMERS  
INSURANCE COMPANY, INC.,

Plaintiffs,

vs.

WINNEBAGO INDUSTRIES, INC., a  
foreign corporation,

Defendants.

Jack C. S. v. C. v.  
U.S. DISTRICT COURT

NO. 86-C-548-E

ORDER

This matter comes on for hearing before the undersigned United States District Judge on the Application of the plaintiffs to dismiss the above captioned case without prejudice. The Court finds that plaintiff's Application should be, and is hereby, granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that the Application for Dismissas Without Prejudice filed herein by the plaintiff's, is hereby granted, and the cause stands dismissed without prejudice.

James O. Ellison  
UNITED STATES DISTRICT COURT



FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC 1986

MARY M. O'NEAL,

Plaintiff,

v.

OTIS R. BOWEN, M.D., SECRETARY  
OF HEALTH AND HUMAN SERVICES,  
UNITED STATES OF AMERICA,

Defendant.

No. 86-C-309-E


ORDER

The Court has for consideration the Findings and Recommendations of the Magistrate filed November 14, 1986, in which the Magistrate recommended that the decision of the Secretary be affirmed. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the Court has concluded that the Findings and Recommendations of the Magistrate should be and hereby are affirmed and adopted by the Court.

It is therefore Ordered that the decision of the Secretary denying Plaintiff's application for disability insurance benefits be and is hereby affirmed.

Dated this 3<sup>rd</sup> day of December, 1986.

  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**  
**IN OPEN COURT**

DEC 2 - 1986

Jack C. Silver  
Clerk, U. S. District Court

CASSANDRA RAMSEY, et al.,

Plaintiffs,

v.

Case No. 86-C-140-C

CITY OF PRYOR, OKLAHOMA; WILEY  
BACKWATER; and ROBERT McLEMORE,

Defendants.

JOURNAL ENTRY OF JUDGMENT

Now on this 2d day of December 1986 there came on for hearing the above-captioned matter for trial. Plaintiffs appeared in person and by their attorney C. Clay Roberts, III; the Defendants appeared by and through their attorney John Howard Lieber, and in open Court all parties waived jury trial.

The Court being fully advised in the premises finds that Cassandra Denice Ramsey is the duly-qualified and acting Administratrix of the Estate of Johnny Leon Ramsey.

The Court further finds that this action has been brought by Cassandra Denice Ramsey, Administratrix of the Estate of Johnny Leon Ramsey, deceased, pursuant to the requirements of Oklahoma Statute and that the lawsuit is brought for the benefit of the Estate of Johnny Leon Ramsey, for the benefit of the heirs of Johnny Leon Ramsey and for the benefit of Cassandra Denice Ramsey, individually and as surviving spouse of Johnny Leon Ramsey.

The Court further finds that Johnny Leon Ramsey died instantly as a result of the incident giving rise to this lawsuit

and that he endured no pain and suffering and that there is no portion of the agreed settlement hereinafter set forth attributable to the Estate of Johnny Leon Ramsey, but that all proceeds of said settlement inure directly to the benefit of Cassandra Denice Ramsey, individually, as surviving spouse, and on behalf of all heirs at law of Johnny Leon Ramsey, deceased.

The Court further finds that Cassandra Denice Ramsey is the surviving spouse of Johnny Leon Ramsey and that Ashley Ramsey, the only child of this marriage, is the only heir.

The Court further finds that the District Court of Mayes County, Probate Division, having jurisdiction over the Estate of Johnny Leon Ramsey, deceased, has entered its Order authorizing a settlement of this case in the sum of ONE HUNDRED AND TEN THOUSAND AND NO/100 DOLLARS (\$110,000.00).

The Court further finds that Cassandra Denice Ramsey, on her behalf and on behalf of Ashley Ramsey, entered into a contract with her lawyers to prosecute this action on a one-third contingency fee basis, plus costs. The Court has reviewed this contract to determine if it is reasonable and to insure that no unfair advantage over the minor child has been taken. The Court finds that this contract is reasonable and the law firm of Marsh & Armstrong should be awarded its fees and costs out of the proceeds.

The Court further finds that the parties have heretofore entered into an agreed settlement in the total sum of ONE HUNDRED AND TEN THOUSAND AND NO/100 DOLLARS (\$110,000.00), which agreement is hereby approved by the Court.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Cassandra Denice Ramsey, individually, as surviving spouse of Johnny Leon Ramsey, and on behalf of Ashley Ramsey, have and recover the sum of ONE HUNDRED AND TEN THOUSAND AND NO/100 DOLLARS (\$110,000.00) from the Defendants in this action, and that this sum is not a recovery by or for the Estate of Johnny Leon Ramsey.

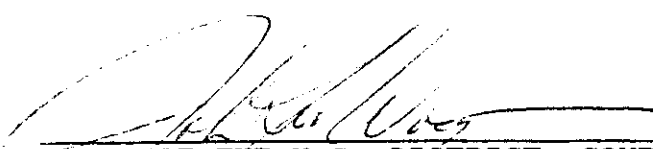
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the firm of Marsh & Armstrong is to be paid its one-third fee, plus costs, from this recovery before distribution to Cassandra Ramsey and Ashley Ramsey.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the damages set forth above represent all of the damages which are recoverable by anyone, including the heirs at law, by reason of the death of Johnny Leon Ramsey, and that said sum is to be distributed to the following individuals a recovery for all of the damages which are recoverable by such individuals at law:

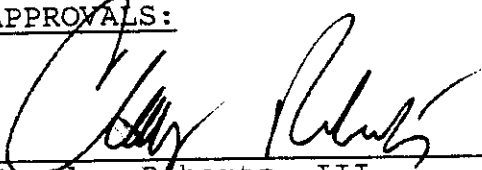
Cassandra Denice Ramsey	\$55,000 (less proportionate share of fees and costs)
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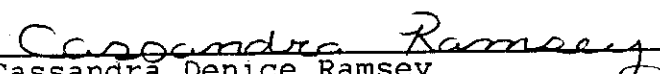
Ashley Ramsey	\$55,000 (less proportionate share of fees and costs)
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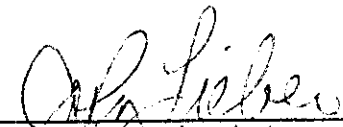
IT IS FURTHER ORDERED that the clerk file and enter any Satisfaction of Judgment entered herein tendered for filing by Plaintiffs or Defendants evidencing payment of the total sum of ONE HUNDRED AND TEN THOUSAND AND NO/100 DOLLARS (\$110,000.00) as aforesaid.

  
~~JUDGE OF THE U.S. DISTRICT COURT~~  
~~FOR THE NORTHERN DISTRICT OF~~  
~~OKLAHOMA~~ *U.S. MAGISTRATE*

APPROVALS:

  
C. Clay Roberts, III  
MARSH & ARMSTRONG  
Attorneys for Cassandra Denice Ramsey

  
Cassandra Denice Ramsey  
individually, as Administratrix of the  
Estate of Johnny Leon Ramsey and on  
behalf of all Heirs at Law of Johnny  
Leon Ramsey, Deceased

  
John Howard Lieber  
KNIGHT, WAGNER, STUART, WILKERSON & LIEBER  
Attorneys for the Defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC -2 1986

UTICA NATIONAL BANK & TRUST CO.,  
a national banking association,

Plaintiff,

vs.

CALVIN RANSOM, et al.,

Defendants.

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

No. 85-C-537-C

STIPULATION OF DISMISSAL

PURSUANT to the provisions of Rule 41(a)(1) of the Federal Rules of Civil Procedure, the parties hereto agree that Plaintiff's claims against ~~JMJ Partnership, a~~ partnership of which John B. Naughton, Sr. is a general partner asserted herein are hereby dismissed with prejudice, each party to bear its/their own costs incurred herein.

This dismissal shall have no effect on any other claims made against any other Defendant herein.

DATED this 14<sup>th</sup> day of <sup>Nov.</sup> ~~October~~, 1986.

*Charles V. Wheeler*

Charles V. Wheeler  
GABLE & GOTWALS  
2000 Fourth National Bank Building  
Tulsa, Oklahoma 74119  
(918) 582-9201

ATTORNEYS FOR PLAINTIFF  
UTICA NATIONAL BANK & TRUST CO.

*Katie J. Colopy*

~~Thomas H. Dank~~ Katie J. Colopy  
FITZGERALD, BROWN, LEAHY, STROM,  
SCHORR & BARMETTLER  
1000 Woodmen Tower  
Omaha, Nebraska 68102

ATTORNEYS FOR DEFENDANT  
JMJ PARTNERSHIP

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC -2 1986

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

UTICA NATIONAL BANK & TRUST CO.,  
a national banking association,

Plaintiff,

vs.

No. 85-C-537-C

CALVIN RANSOM, et al.,

Defendants.

STIPULATION OF DISMISSAL

PURSUANT to the provisions of Rule 41(a)(1) of the Federal Rules of Civil Procedure, the parties hereto agree that Plaintiff's claims against ~~Duard S. Pederson~~ asserted herein are hereby dismissed with prejudice, each party to bear its/his own costs incurred herein.

This dismissal shall have no effect on any other claims made against any other Defendant herein.

DATED this 5<sup>th</sup> day of <sup>Nov.</sup> ~~October~~, 1986.

*Charles V. Wheeler*

Charles V. Wheeler  
GABLE & GOTWALS  
2000 Fourth National Bank Building  
Tulsa, Oklahoma 74119  
(918) 582-9201

ATTORNEYS FOR PLAINTIFF  
UTICA NATIONAL BANK & TRUST CO.

*Katie J. Colopy*

Thomas H. Dink Katie J. Colopy  
FITZGERALD, BROWN, LEAHY, STROM,  
SCHORR & BARMETTLER  
1000 Woodmen Tower  
Omaha, Nebraska 68102

ATTORNEYS FOR DEFENDANT  
DUARD S. PEDERSON

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC -2 1986

UTICA NATIONAL BANK & TRUST CO.,  
a national banking association,

Plaintiff,

vs.

CALVIN RANSOM, et al.,

Defendants.

No. 85-C-537-C

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

STIPULATION OF DISMISSAL

PURSUANT to the provisions of Rule 41(a)(1) of the Federal Rules of Civil Procedure, the parties hereto agree that Plaintiff's claims against ~~Horton, Barbaro and Reilly~~, a partnership of which Frank P. Barbaro is a general partner asserted herein are hereby dismissed with prejudice, each party to bear its/their own costs incurred herein.

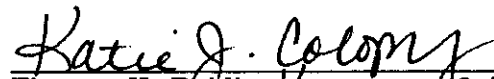
This dismissal shall have no effect on any other claims made against any other Defendant herein.

DATED this 27<sup>th</sup> day of October, 1986.



Charles V. Wheeler  
GABLE & GOTWALS  
2000 Fourth National Bank Building  
Tulsa, Oklahoma 74119  
(918) 582-9201

ATTORNEYS FOR PLAINTIFF  
UTICA NATIONAL BANK & TRUST CO.



~~Thomas H. Dahlk~~ Katie J. Colopy  
FITZGERALD, BROWN, LEAHY, STROM,  
SCHORR & BARMETTLER  
1000 Woodmen Tower  
Omaha, Nebraska 68102

ATTORNEYS FOR DEFENDANT  
HORTON, BARBARO & REILLY



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC -2 1986

UTICA NATIONAL BANK & TRUST CO.,  
a national banking association,

Plaintiff,

vs.

CALVIN RANSOM, et al.,

Defendants.

No. 85-C-537-C

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

STIPULATION OF DISMISSAL

PURSUANT to the provisions of Rule 41(a)(1) of the Federal Rules of Civil Procedure, the parties hereto agree that Plaintiff's claims against ~~PRESTON S. ADAMS~~ asserted herein are hereby dismissed with prejudice, each party to bear its/his own costs incurred herein.


This dismissal shall have no effect on any other claims made against any other Defendant herein.

DATED this 27<sup>th</sup> day of October, 1986.



Charles V. Wheeler  
GABLE & GOTWALS  
2000 Fourth National Bank Building  
Tulsa, Oklahoma 74119  
(918) 582-9201

ATTORNEYS FOR PLAINTIFF  
UTICA NATIONAL BANK & TRUST CO.



~~Thomas H. Dahlk~~ Katie J. Colopy  
FITZGERALD, BROWN, LEAHY, STROM,  
SCHORR & BARMETTLER  
1000 Woodmen Tower  
Omaha, Nebraska 68102

ATTORNEYS FOR DEFENDANT  
PRESTON S. ADAMS

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC -2 1986

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

UTICA NATIONAL BANK & TRUST CO.,  
a national banking association,

Plaintiff,

vs.

No. 85-C-537-C

CALVIN RANSOM, et al.,

Defendants.

STIPULATION OF DISMISSAL

PURSUANT to the provisions of Rule 41(a)(1) of the Federal Rules of Civil Procedure, the parties hereto agree that Plaintiff's claims against ~~Calvin Ransom~~ asserted herein are hereby dismissed with prejudice, each party to bear its/his own costs incurred herein.

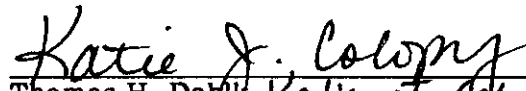
This dismissal shall have no effect on any other claims made against any other Defendant herein.

DATED this 27th day of October, 1986.



Charles V. Wheeler  
GABLE & GOTWALS  
2000 Fourth National Bank Building  
Tulsa, Oklahoma 74119  
(918) 582-9201

ATTORNEYS FOR PLAINTIFF  
UTICA NATIONAL BANK & TRUST CO.



Thomas H. Daryl Katie J. Colopy  
FITZGERALD, BROWN, LEAHY, STROM,  
SCHORR & BARMETTLER  
1000 Woodmen Tower  
Omaha, Nebraska 68102

ATTORNEYS FOR DEFENDANT  
CALVIN RANSOM

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

UTICA NATIONAL BANK & TRUST CO.,  
a national banking association,

Plaintiff,

vs.

CALVIN RANSOM, et al.,

Defendants.

DEC -2 1986

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

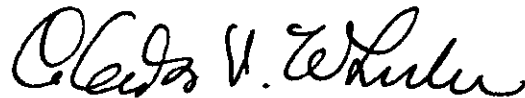
No. 85-C-537-C

STIPULATION OF DISMISSAL

PURSUANT to the provisions of Rule 41(a)(1) of the Federal Rules of Civil Procedure, the parties hereto agree that Plaintiff's claims against ~~Gerard McLarnen~~ asserted herein are hereby dismissed with prejudice, each party to bear its/his own costs incurred herein.

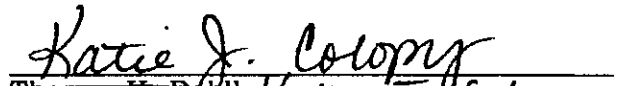
This dismissal shall have no effect on any other claims made against any other Defendant herein.

DATED this 27<sup>th</sup> day of October, 1986.



Charles V. Wheeler  
GABLE & GOTWALS  
2000 Fourth National Bank Building  
Tulsa, Oklahoma 74119  
(918) 582-9201

ATTORNEYS FOR PLAINTIFF  
UTICA NATIONAL BANK & TRUST CO.



~~Thomas H. Dalk~~ Katie J. Colopy  
FITZGERALD, BROWN, LEAHY, STROM,  
SCHORR & BARMETTLER  
1000 Woodmen Tower  
Omaha, Nebraska 68102

ATTORNEYS FOR DEFENDANT  
GERARD McLARNEN

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC -2 1986

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

UTICA NATIONAL BANK & TRUST CO.,  
a national banking association,

Plaintiff,

vs.

No. 85-C-537-C

CALVIN RANSOM, et al.,

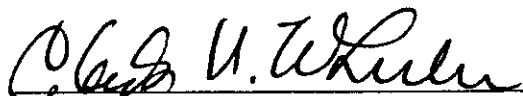
Defendants.

STIPULATION OF DISMISSAL

PURSUANT to the provisions of Rule 41(a)(1) of the Federal Rules of Civil Procedure, the parties hereto agree that Plaintiff's claims against ~~Rula S. Williams~~ asserted herein are hereby dismissed with prejudice, each party to bear its/her own costs incurred herein.

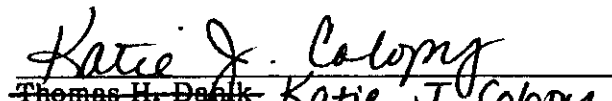
This dismissal shall have no effect on any other claims made against any other Defendant herein.

DATED this 27th day of October, 1986.



Charles V. Wheeler  
GABLE & GOTWALS  
2000 Fourth National Bank Building  
Tulsa, Oklahoma 74119  
(918) 582-9201

ATTORNEYS FOR PLAINTIFF  
UTICA NATIONAL BANK & TRUST CO.

  
~~Thomas H. Dank~~ Katie J. Colopy  
FITZGERALD, BROWN, LEAHY, STROM,  
SCHORR & BARMETTLER  
1000 Woodmen Tower  
Omaha, Nebraska 68102

ATTORNEYS FOR DEFENDANT  
RULA S. WILLIAMS

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC -2 1986

UTICA NATIONAL BANK & TRUST CO.,  
a national banking association,

Plaintiff,

vs.

CALVIN RANSOM, et al.,

Defendants.

No. 85-C-537-C

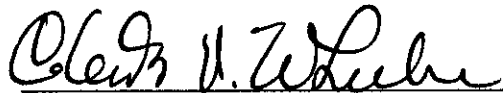
JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

STIPULATION OF DISMISSAL

PURSUANT to the provisions of Rule 41(a)(1) of the Federal Rules of Civil Procedure, the parties hereto agree that Plaintiff's claims against ~~J. Robert Bonnemort~~ asserted herein are hereby dismissed with prejudice, each party to bear its/his own costs incurred herein.

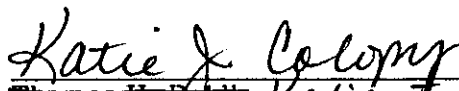
This dismissal shall have no effect on any other claims made against any other Defendant herein.

DATED this 27th day of October, 1986.



Charles V. Wheeler  
GABLE & GOTWALS  
2000 Fourth National Bank Building  
Tulsa, Oklahoma 74119  
(918) 582-9201

ATTORNEYS FOR PLAINTIFF  
UTICA NATIONAL BANK & TRUST CO.



~~Thomas H. Fitz~~ Katie J. Colomy  
FITZGERALD, BROWN, LEAHY, STROM,  
SCHORR & BARMETTLER  
1000 Woodmen Tower  
Omaha, Nebraska 68102

ATTORNEYS FOR DEFENDANT  
J. ROBERT BONNEMORT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC -2 1986

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

UTICA NATIONAL BANK & TRUST CO.,  
a national banking association,

Plaintiff,

vs.

No. 85-C-537-C

CALVIN RANSOM, et al.,

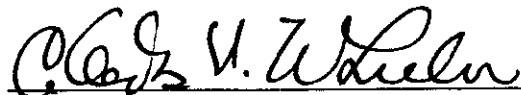
Defendants.

STIPULATION OF DISMISSAL

PURSUANT to the provisions of Rule 41(a)(1) of the Federal Rules of Civil Procedure, the parties hereto agree that Plaintiff's claims against ~~Joseph E. Wondrack~~ asserted herein are hereby dismissed with prejudice, each party to bear its/his own costs incurred herein.

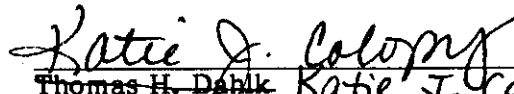
This dismissal shall have no effect on any other claims made against any other Defendant herein.

DATED this 27<sup>th</sup> day of October, 1986.



Charles V. Wheeler  
GABLE & GOTWALS  
2000 Fourth National Bank Building  
Tulsa, Oklahoma 74119  
(918) 582-9201

ATTORNEYS FOR PLAINTIFF  
UTICA NATIONAL BANK & TRUST CO.



~~Thomas H. Dahl~~ Katie J. Colopy  
FITZGERALD, BROWN, LEAHY, STROM,  
SCHORR & BARMETTLER  
1000 Woodmen Tower  
Omaha, Nebraska 68102

ATTORNEYS FOR DEFENDANT  
JOSEPH E. WONDRACK

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC -2 1986

UTICA NATIONAL BANK & TRUST CO.,  
a national banking association,

Plaintiff,

vs.

CALVIN RANSOM, et al.,

Defendants.

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

No. 85-C-537-C

STIPULATION OF DISMISSAL

PURSUANT to the provisions of Rule 41(a)(1) of the Federal Rules of Civil Procedure, the parties hereto agree that Plaintiff's claims against ~~Robert W. Taylor~~ asserted herein are hereby dismissed with prejudice, each party to bear its/his own costs incurred herein.

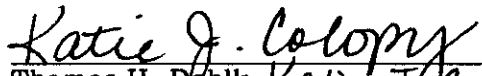
This dismissal shall have no effect on any other claims made against any other Defendant herein.

DATED this 27th day of October, 1986.



Charles V. Wheeler  
GABLE & GOTWALS  
2000 Fourth National Bank Building  
Tulsa, Oklahoma 74119  
(918) 582-9201

ATTORNEYS FOR PLAINTIFF  
UTICA NATIONAL BANK & TRUST CO.



~~Thomas H. Dahlke~~ Katie J. Colopy  
FITZGERALD, BROWN, LEAHY, STROM,  
SCHORR & BARMETTLER  
1000 Woodmen Tower  
Omaha, Nebraska 68102

ATTORNEYS FOR DEFENDANT  
ROBERT W. TAYLOR

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC -2 1986

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

GREEN TREE ACCEPTANCE, INC.       )  
a Minnesota corporation,        )  
                                  )  
                          Plaintiff,        )  
                                  )  
vs.                                )  
                                  )  
CASEY'S MOBILE HOMES, INC.;       )  
WAYNE ANDERSON, individually;    )  
and CARLA M. ANDERSON,            )  
individually,                    )  
                                  )  
                          Defendants.        )

Case No. 86-C-147-B

ORDER TAXING COSTS AND ASSESSING ATTORNEY FEES

NOW on this 10th day of November, 1986, before the undersigned Judge, the above styled and numbered cause comes on for hearing. Evidence is presented as to the hours and costs incurred in this case by the attorney for the Plaintiff, James M. Hinds. There being no contest to the hearing, no one appearing for the Defendants, the Court finds:

BE IT ORDERED, ADJUDGED AND DECREED, that James M. Hinds be awarded as a reasonable attorney fee for the reasonable and necessary work done on behalf of the prevailing Plaintiff in this case the sum of \$1,180.00. It is further ordred that the sum of \$80.00 be taxed separately as costs, making a total attorney fee and costs taxation of \$1,260.00.

FOR ALL OF WHICH LET EXECUTION ISSUE.

S/ THOMAS R. BRETT

Thomas R. Brett  
Judge for the United States  
District Court for the  
Northern District of Oklahoma



IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF OKLAHOMA

DEC 11 1986

EUNA B. TROTTER,

Plaintiff,

-vs-

REPUBLIC FINANCIAL SERVICES, INC.  
d/b/a Republic Insurance Group  
and VANGUARD INSURANCE COMPANY,  
a foreign corporation,

Defendants.

No. 86-C-953E

ORDER OF DISMISSAL

On this 2nd day of December, 1986, this matter comes on for hearing pursuant to the Joint Stipulation of Dismissal With Prejudice filed on behalf of all parties. The Court, being fully advised in the matter, finds that all plaintiff's claims made in this litigation have been fully settled, and this matter should be dismissed with prejudice to the filing of any future action.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that this matter be and is hereby dismissed with prejudice to the filing of any future action.

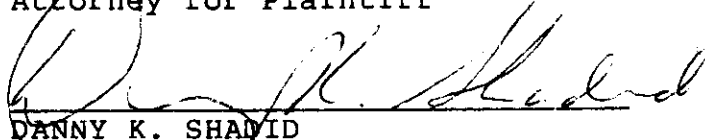
S/ JAMES O. ELLISON

JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

APPROVED:



PAUL T. BOUDREAUX  
Attorney for Plaintiff



DANNY K. SHADID  
Attorney for Defendants Vanguard  
Insurance Company and Republic  
Financial Services, Inc.

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA DEC 2 1986

U.S. DIST.  
COURT

LAKE INDUSTRIES, INC.  
an Oklahoma corporation,

Plaintiff,

v.

No. 86-C-877 E

UNITED FRUIT & PRODUCE OF  
OKLAHOMA, INC., a Missouri  
corporation, and UNITED  
INDUSTRIES, INC., a Missouri  
corporation,

Defendants.

ORDER OF DISMISSAL WITH PREJUDICE

NOW in the above-captioned cause pursuant to the Stipulation of Dismissal and Mutual Release filed by all parties herein, the above-captioned action is hereby dismissed with prejudice to the refiling of the same.

United States District Judge

ENTERED IN JUDGMENT DOCKET ON 12-2-86, 1986

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

DEC 2 1985

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

SANTA FE-ANDOVER OIL COMPANY,

Plaintiff,

vs.

DELHI GAS PIPELINE  
CORPORATION,

Defendant,

No. 84-C-864-E

consolidated with

C F BRAUN & CO, et al.,

Plaintiffs,

vs.

DELHI GAS PIPELINE  
CORPORATION,

Defendant.

No. 85-C-38-E

O R D E R

Pursuant to the joint stipulation of dismissal with prejudice filed by the plaintiffs and the defendant, it is hereby

ORDERED that all claims and counterclaims asserted in this consolidated action shall be, and hereby are, dismissed with prejudice, with each party to bear its own costs.

S/ JAMES O. ELLISON

United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**F I L E D**

DEC 2 1986

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

SANTA FE-ANDOVER OIL COMPANY,

Plaintiff,

vs.

DELHI GAS PIPELINE  
CORPORATION,

Defendant,

consolidated with

C F BRAUN & CO, et al.,

Plaintiffs,

vs.

DELHI GAS PIPELINE  
CORPORATION,

Defendant.

No. 84-C-864-E

No. 85-C-38-E

O R D E R

Pursuant to the joint stipulation of dismissal with prejudice filed by the plaintiffs and the defendant, it is hereby

ORDERED that all claims and counterclaims asserted in this consolidated action shall be, and hereby are, dismissed with prejudice, with each party to bear its own costs.

United States District Judge

SECRET

Plaintiff,

DEC 2 1986

**VS.**

SEVENTEEN THOUSAND, NINE  
HUNDRED, EIGHTY DOLLARS  
(\$17,980.00) IN UNITED  
STATES CURRENCY,

Jack C. ...  
U.S. DIST.

Defendant-in-Rem.

CIVIL ACTION NO. 86-C-592-B

### JUDGMENT OF FORFEITURE

This cause having come before this Court upon Plaintiff's Application and being otherwise fully apprised in the premises, it is hereby

ORDERED, ADJUDGED, AND DECREED that judgment be entered against the Defendant, Seventeen Thousand, Nine Hundred, Eighty Dollars (\$17,980.00) in United States Currency, and against all persons interested in such property and that the said property be and the same is hereby forfeited to the United States of America.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

LAYN R. PHILLIPS  
United States Attorney

Catherine J. Harden

CATHERINE J. HARDIN  
Assistant U.S. Attorney

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

SKYFREIGHTERS CORP., a  
Texas corporation,

Plaintiff,

vs.

INTERNATIONAL BUSINESS  
AIRCRAFT, INC., an Oklahoma  
corporation; and GEORGE MALL,  
an individual,

Defendants.

FILED

DEC 12 1986

John C. Smith, Clerk  
U.S. DISTRICT COURT

No. 86-C-364-B ✓

JOINT STIPULATION OF  
DISMISSAL WITH PREJUDICE

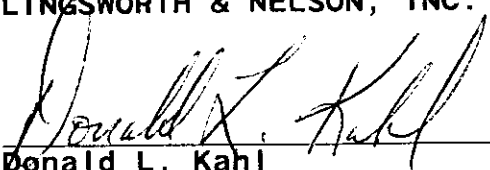
Skyfreighters Corp., International Business Aircraft, Inc.  
and George Mall, pursuant to Fed. R. Civ. P. 41, hereby dismiss  
all claims and counterclaims filed in this action with pre-  
judice to the refiling thereof.

Dated this 24<sup>th</sup> day of November, 1986.

Respectfully submitted,

HALL, ESTILL, HARDWICK, GABLE,  
COLLINGSWORTH & NELSON, INC.

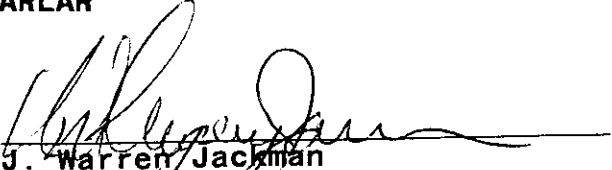
By

  
Donald L. Kahl  
William G. Bernhardt  
4100 Bank of Oklahoma Tower  
One Williams Center  
Tulsa, Oklahoma 74172  
(918) 588-2700

ATTORNEYS FOR PLAINTIFF  
SKYFREIGHTERS CORP.

PRAY, WALKER, JACKMAN, WILLIAMSON  
& MARLAR

By



J. Warren Jackman  
Wm. Gregory James  
900 Oneok Plaza  
Tulsa, Oklahoma 74103  
(918) 584-4136

ATTORNEYS FOR DEFENDANTS  
INTERNATIONAL BUSINESS AIRCRAFT,  
INC. and GEORGE MALL

Figure 1 consists of two line graphs. The left graph plots 'Rate of reaction' on the y-axis against 'Temperature / °C' on the x-axis. The curve starts at a low rate at 10°C, rises to a peak at 30°C, and then falls at 40°C. The right graph plots 'Rate of reaction' on the y-axis against 'Temperature / °C' on the x-axis. The curve shows a steady, exponential increase in the rate of reaction as temperature rises from 10°C to 40°C.

009-1 126

JOHN C. SMITH, CLERK  
DISTRICT COURT

No. 85-C-657-E

Defendants.

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)

IT IS ORDERED AND ADJUDGED that the Plaintiffs John Hodges, Bill Black, Dennis Langley, Jim Goodlander, Dave Hemington, Darren Oxford, Al Pentlin, Howard Clark, Gary Kirby and Gordon Cox take nothing from the Defendant Bob Pickard d/b/a Bob Pickard Painting, that the action be dismissed on the merits, and that the Defendant Bob Pickard d/b/a Bob Pickard Painting recover of the Plaintiffs John Hodges, Bill Black, Dennis Langley, Jim Goodlander, Dave Hemington, Darren Oxford, Al Pentlin, Howard Clark, Gary Kirby and Gordon Cox his costs of action.

DATED at Tulsa, Oklahoma this 26<sup>th</sup> day of November, 1986.

*James Ellison*  
J. O. ELLISON



Dr 1 1986

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*James O. Illari*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

11 1 1986

THE HOME INSURANCE COMPANY,

Plaintiff,

vs.

JOHNNY REED, et al.,

Defendants.

No. 85-C-710-E


JUDGMENT DISMISSING ACTION  
BY REASON OF SETTLEMENT

The Court has been advised by counsel that this action has been settled, or is in the process of being settled. Therefore it is not necessary that the action remain upon the calendar of the Court.

IT IS ORDERED that the action is dismissed without prejudice. The Court retains complete jurisdiction to vacate this Order and to reopen the action upon cause shown within twenty (20) days that settlement has not been completed and further litigation is necessary.

IT IS FURTHER ORDERED that the Clerk forthwith serve copies of this judgment by United States mail upon the attorneys for the parties appearing in this action.

DATED this 26<sup>th</sup> day of November, 1986.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT IN AND FOR  
THE NORTHERN DISTRICT OF OKLAHOMA

DEC -1 1986

UNITED SATELLITE ANTENNA TELEVISION )  
CORPORATION, an Oklahoma corporation, )

Plaintiff, )

v. )

ALLTEX CONSTRUCTION, INC., a Texas )  
corporation, )

Defendant. )

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

Case No. 86-C-668-C

STIPULATION OF DISMISSAL WITHOUT PREJUDICE

COME NOW the Plaintiff, United Satellite Antenna Television Corporation, and Defendant, Alltex Construction, Inc., pursuant to Rule 41 (a)(1) of the Federal Rules of Civil Procedure, and hereby stipulate to the dismissal of this action without prejudice to the future refiling thereof.

RESPECTFULLY SUBMITTED,

WINSTEAD, MCGUIRE, SECHREST & MINICK

BEST, SHARP, THOMAS, GLASS & ATKINSON

By: 

Christopher J. Simpson  
1601 Elm Street, Suite 700  
Dallas, Texas 75201  
(214) 745-5109

By: 

Andrew B. Morsman  
507 South Main, Suite 300  
Tulsa, Oklahoma 74103  
(918) 582-8877